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Colony and Protectorate of Nigeria—1948 Revision

CHAPTER 51

NIGERIA COCOA MARKETING BOARD

AN ORDINANCE TO ESTABLISH A COCOA MARKETING BOARD FOR NIGERIA AND TO PROVIDE FOR THE REGULATION AND CONTROL OF THE MARKETING AND EXPORT OF NIGERIAN COCOA AND FOR MATTERS CONNECTED THEREWITH. *Ordinance No. 33 of 1947.*

[6th September, 1947](¹)

PART I

PRELIMINARY

1. This Ordinance may be cited as the Nigeria Cocoa Marketing Board Ordinance. Short title.

2. In this Ordinance, unless the context otherwise requires—
“advisory committee” means the Cocoa Marketing Advisory Committee established under section 30; Interpretation.

“the Board” means the Nigeria Cocoa Marketing Board established under section 3;

“cocoa” means the fruits of *Theobroma Cacao* and its allied species;

“crop year” means the period from the first day of October in any year to the thirtieth day of September next following, both dates inclusive;

“export” with its grammatical variations and cognate expressions means to take or cause to be taken out of Nigeria;

“licensed buying agent” means a buying agent in possession of a valid licence granted by the Board under section 17 for the purchase of cocoa for sale to the Board and includes a servant or employee of a licensed buying agent duly authorised in writing by that licensed buying agent under the provisions of the Ordinance;

“producer” means a person who grows cocoa in Nigeria for sale;

“purchase” with its grammatical variations and cognate expressions includes exchange or barter and any agreement or contract to purchase;

“sell” with its grammatical variations and cognate expressions includes exchange or barter and any agreement or contract to sell.

(¹) Govt. Notice 1257 in Gazette 48 of 1947,

PART II

APPOINTMENT AND CONSTITUTION OF THE BOARD

There shall be established a Board to be known as the Cocoa Marketing Board which shall consist of not more than seven members, of whom not less than three shall be Nigerians, to be appointed by the Governor.

The Governor may appoint a person to be a member of the Board by name or, when the person to be appointed is the holder of a public office, by designating the office of which he is

The Governor shall appoint a member of the Board to be the Chairman.

The Chairman and other members of the Board shall, at the Governor's pleasure, hold office for two years from the date of their respective appointments but shall be eligible for re-appointment.

When the chairman is temporarily absent from Nigeria or is temporarily incapacitated from performing the duties of his office, the Governor may appoint a person, if such person is a member of the Board, to be chairman during such period of absence or incapacity.

When any temporary appointment being made under sub-section (1) all the powers and duties of the chairman under the Ordinance shall devolve upon the person so appointed to the exclusion of the chairman so absent during such period.

When a member of the Board is temporarily incapacitated from performing his functions as a member by reason of his absence from Nigeria or by reason of his being appointed chairman under the provisions of section 5 of the Ordinance for good cause, the Governor may appoint a person to be a member during such period of incapacity and during such period all the powers and duties of the member so incapacitated shall devolve upon the member so appointed to the exclusion of the member so temporarily incapacitated.

When on any special occasion the Board desires to refer any matter to the consideration of any person upon any particular matter, the

Nigeria Cocoa Marketing Board

Board may co-opt such person to be a member for such meeting or meetings as may be required and such person, while so co-opted, shall have all the rights and privileges of a member save that he shall not be entitled to vote upon any question.

8. The chairman duly appointed under the provisions of this Ordinance shall have an original vote and where the votes are equally divided a casting vote in addition to his original vote.

Chairman to have original and casting vote.

9. At a meeting of the Board two members and the chairman shall be a quorum.

Quorum

10. The Board shall meet at least twice in each year and at such other times as may be required by standing orders made under section 15.

Meetings.

11. (1) Any two members of the Board may by notice in writing signed by them request the chairman to call a special meeting of the Board for the purposes set out in such notice.

Special meetings.

(2) The advisory committee may by a resolution signed by the majority of its members request the chairman to call a special meeting of the Board for the purposes set out in that resolution.

(3) The chairman shall, upon receipt of any such notice or resolution, summon a special meeting of the Board for such purposes at the earliest convenient date.

12. (1) The Governor shall appoint a secretary to the Board who shall conduct the correspondence and keep the records of the Board and perform such other duties as the Board may from time to time direct or which are placed upon him under the provisions of this Ordinance or any other written law.

Secretary to the Board.

(2) The secretary shall be an officer, but not a member, of the Board.

13. (1) The Board shall be a body corporate having perpetual succession and a common seal and may, in the corporate name, sue and be sued.

Board to be a body corporate.

(2) The Board is hereby exempted from all the provisions of the Income Tax Ordinance.

Exemption from Income Tax Ordinance. Cap. 92.

14. (1) The Board may, with the approval of the Governor—
(a) by the majority vote of all its members delegate to the chairman the routine administration of the affairs of the Board ;

Delegation of powers and appointment of agents.

(b) from time to time, in like manner, appoint agents to perform any of the powers or duties conferred or imposed

Nigeria Cocoa Marketing Board

upon the Board, and for the purposes of this paragraph the term "agent" shall include a department of Government.

(2) Nothing in this section contained shall be deemed to authorise the Board to delegate to the chairman the power to make standing orders or to do any act involving extraordinary expenditure or to fix or control the price of cocoa or to authorise any agent to exercise any power or duty outside the scope of the written appointment of such agent.

Standing orders.

15. The Board may, with the approval of the Governor, from time to time make standing orders providing for the proper conduct of its business and for meetings of the Board and in particular for—

- (a) providing for the election of a chairman at any meeting from which the chairman is absent in circumstances other than those provided for in section 5 ;
- (b) the custody and use of the common seal ; and
- (c) the method of entering into contracts and the execution thereof, and the signing of cheques and other similar instruments.

PART III

FUNCTIONS, POWERS, AND DUTIES OF THE BOARD

General function of the Board.

16. It shall be the duty of the Board to secure the most favourable arrangements for the purchase, grading, export and marketing of Nigerian cocoa and to assist in the development by all possible means of the cocoa industry of Nigeria for the benefit and prosperity of the producers.

Specific powers of the Board.

17. In particular, and without prejudice to the generality of section 16, the Board shall have power—

- (a) to control and fix the prices to be paid from time to time for cocoa or for any grade thereof at any place or within any specified area, and similarly to notify such prices in such manner as the Board may deem requisite ;
- (b) to purchase cocoa and to do all things necessary for and in connexion with the purchase of cocoa ;
- (c) to appoint licensed buying agents for the purchase of cocoa on behalf of the Board ;
- (d) to control and fix the prices to be paid from time to time to licensed buying agents for cocoa ;

Nigeria Cocoa Marketing Board

- (e) to control and regulate the activities and remuneration, by licence or otherwise, of all persons or classes of persons connected with the sale, purchase or other disposition of cocoa and if necessary to prohibit any person or class of persons from dealing in cocoa ;
- (f) to grant, renew or withhold licences for each crop year in respect of licensed buying agents, to impose conditions upon the grant or renewal of such licences, whether in respect of the area in which cocoa is to be purchased or sold, the quality so to be purchased or sold or otherwise disposed of, and to cancel or suspend any licence for breach of any such conditions or for other good cause ;
- (g) to grant, withhold or cancel in its absolute discretion any written authority given under section 36, 37 or 38 ;
- (h) to market cocoa and to do all things necessary for and in connexion with the marketing, exporting, shipping and storage of Nigerian cocoa.

18. The Board and its licensed buying agents shall purchase all cocoa, graded as suitable for export, offered for sale.

Board and agents to purchase cocoa from producers.

19. The Board may, with the approval of the Governor in Council, from time to time enter into any arrangement with the Government of any country or with any department, authority or person in any country, for or in connexion with any of the purposes of this Ordinance.

Power to Board to enter into arrangements.

20. (1) The Board shall seek the advice of the advisory committee on all matters in connexion with the purchase and grading of Nigerian cocoa and with the development of the cocoa industry in Nigeria in general, and in connexion with any sums to be expended under sub-section (2) of section 26.

Board to consult advisory committee.

(2) The Board may refer any matter in connexion with the purposes of this Ordinance to the advisory committee for advice.

(3) If the Board fails to accept the advice offered to it by the advisory committee on any matter within the scope of sub-section (1), the chairman shall forthwith report the matter to the Governor in Council with the reasons for such refusal.

21. (1) As soon as may be after the thirtieth day of September in any year the Board shall prepare a report of its operations

Annual report and statement of accounts.

Nigeria Cocoa Marketing Board

during the preceding year, and shall forward such report to the Governor in Council, together with a certified copy of the audited accounts of the Board.

(2) The annual report and the certified copy of the audited accounts of the Board shall be published in such manner as the Governor in Council may direct and shall be laid before the Legislative Council.

PART IV

FINANCIAL

Power to Board to acquire real and personal property, and to contract.

22. The Board may, with the approval of the Governor in Council, purchase, hold, manage, and dispose of any property whatsoever whether real or personal and whether by way of investment or otherwise, and may enter into any contract.

Investments.

23. Moneys standing to the credit of the Board may from time to time be invested in securities approved either generally or specifically by the Governor and the Board may, from time to time, with like approval, sell any or all of such securities.

Power to borrow.

24. The Board may, with the approval of the Governor in Council, from time to time borrow, whether by way of mortgage or otherwise, such sums of money for and in connexion with the purposes of this Ordinance as the Board may deem necessary.

Funds of the Board.

25. The funds and resources of the Board shall be—

- (a) such sums as may from time to time be paid to the Board from the amounts standing to the credit of the West African Cocoa Marketing Board or to the credit of the West African Produce Control Board in respect of cocoa, in the books of Government ;
- (b) such sums as may be appropriated from time to time to the Board by any vote of the Legislative Council or by any resolution of the Legislative Council allotting moneys under the provisions of any written law ;
- (c) moneys derived from the marketing of cocoa under the provisions of this Ordinance ;
- (d) moneys earned or arising from any property and investments acquired by or vested in the Board ;
- (e) moneys raised by loan under the powers to borrow vested in the Board by this Ordinance ;

Nigeria Cocoa Marketing Board

- (f) all other sums or property which may in any manner become payable to or vested in the Board in respect of any matter incidental to its functions, powers and duties.

26. (1) The Board may from time to time apply the funds at its disposal— Expenditure.

- (a) to and in connexion with the purchase of cocoa for export ;
- (b) for and in connexion with all or any of its functions, powers and duties under the provisions of this Ordinance ;
- (c) to the cost of the administration of the Board ;
- (d) to the remuneration, honoraria and expenses of the members of the Board or of any class of member in respect of their duties under this Ordinance ;
- (e) to the cost of the administration of the advisory committee and the remuneration, honoraria and expenses of its members or any class of members in respect of their duties under this Ordinance ;
- (f) to the payment of the salaries, gratuities or pensions of the servants of the Board ; and
- (g) to the interest payable in respect of any moneys borrowed under the provisions of this Ordinance.

(2) The Board may, with the approval of the Governor in Council, from time to time contribute, from the funds at its disposal, such sums as may be advisable to any institution, society or scheme, or for any purpose likely in the opinion of the Board to be to the benefit of producers.

27. The Board may, with the approval of the Governor— Servants of the Board.

- (a) from time to time appoint, upon such salaries, terms, and conditions as the Board may think fit, such officers and employees as may be necessary for the proper and efficient conduct of the operations of the Board ;
- (b) grant pensions, gratuities, or retiring allowances to any officer or employee and may require officers and employees to contribute to any pension or contributory scheme.

28. The Board shall keep accounts of its transactions to the satisfaction of the Governor in Council and such accounts shall be audited in each year ending on the thirtieth day of September by the Audit Department of Government or by a person approved by the Governor, Accounts and audit.

Bad debts.

29. The Board may, with the approval of the Governor in Council, write off bad debts.

PART V

THE ADVISORY COMMITTEE

Establishment of advisory committee.

30. There shall be established a committee to be known as the Cocoa Marketing Advisory Committee, which shall consist of—

- (a) a person to be appointed by the Governor, by name or by office, as chairman; and
- (b) not less than nine members, of whom not less than five shall be Nigerians, to be appointed by the Governor to include representatives of producers and commercial interests.

Secretary to the committee.

31. The Governor may appoint a person, by name or by office, to be secretary to the advisory committee.

Term of office.

32. The chairman and members of the advisory committee shall hold office for two years from the dates of their respective appointments but shall be eligible for reappointment.

Vacancies.

33. When the chairman or a member of the advisory committee is temporarily absent from Nigeria or otherwise temporarily incapacitated from performing the functions of his office, the provisions of section 5 or section 6 shall apply *mutatis mutandis*, and the Governor may exercise the powers conferred by the relevant section.

Duties of the advisory committee.

34. The advisory committee shall offer advice to the Board in accordance with the provisions of section 20.

Standing orders.

35. The advisory committee may, with the approval of the Governor, from time to time make standing orders providing for—

- (a) the proper conduct of its business;
- (b) the meetings of the advisory committee;
- (c) the election of a chairman at any meeting from which the chairman is absent in circumstances other than those provided for in section 33;
- (d) the expenses of members or any class of members attending meetings of the advisory committee and other necessary expenses in connexion therewith,

Nigeria Cocoa Marketing Board

PART VI

RESTRICTION ON EXPORT, OR PURCHASE FOR LOCAL
PROCESSING, OF COCOA

36. From and after the commencement of this Ordinance no person shall export cocoa except— Restriction of export.

- (a) a licensed buying agent acting on behalf of the Board ; or
- (b) any other person duly authorised by the Board to act on their behalf.

37. From and after the commencement of this Ordinance no person shall export cocoa other than—

- (a) cocoa which is the property of the Board ; or
- (b) cocoa the export of which has been duly authorised in writing by the Board.

38. From and after the commencement of this Ordinance, cocoa purchased for processing within Nigeria shall be— Cocoa for local processing.

- (a) cocoa which is the property of the Board and the purchase of which has been authorised by the Board ; or
- (b) any other cocoa the purchase of which for such processing has been authorised by the Board in writing, subject to the conditions contained in such authority :

Provided that the provisions of this section shall not apply to cocoa purchased for processing within Nigeria where the product of such processing is consumed within Nigeria.

PART VII

OFFENCES

39. Any person who falsely holds himself out as or represents himself to be a licensed buying agent, or a person acting on the authority or instructions of the Board shall be guilty of an offence. False representation.

40. Any person who contravenes or fails to comply with any of the provisions of this Ordinance or who contravenes or fails to comply with the terms or conditions of any licence or authority granted under the provisions of this Ordinance shall be guilty of an offence. General offences.

41. Any person convicted of an offence against this Ordinance shall be liable to a fine of five hundred pounds or to imprisonment for two years or to both such fine and imprisonment. Penalty.

Special provisions as to directors and officers.

42. Where an offence against this Ordinance is committed by a body corporate and such offence has been committed on the direction of or with the consent and approval of any director, manager, secretary or other officer of such body corporate, that individual, as well as such body corporate, shall be guilty of that offence and may be proceeded against and, if convicted, be punished accordingly.

PART VIII

GENERAL

Control of funds of the Board on dissolution.

43. When the Board ceases for any reason to exercise its functions under the provisions of this Ordinance, or when the Ordinance ceases to have effect whether by reason of its repeal or otherwise, the funds of the Board shall be disposed of for the benefit of Nigeria in such manner as the Governor in Council may direct.

Appeals.

44. Any person aggrieved by the refusal of the Board to grant or renew a licensed buying agent's licence or by any term or condition in any such licence or in any authority may, within fourteen days of such refusal or by the imposition of the terms or conditions complained of, appeal in writing to the Governor in Council, whose decision shall be final.

Power to make regulations.

45. The Governor in Council may make regulations generally for the purposes of this Ordinance and in particular and without prejudice to the generality of the foregoing:—

- (a) for the licensing of buying agents ;
- (b) prescribing the duties, functions and responsibilities of licensed buying agents ;
- (c) requiring books and accounts to be kept by licensed buying agents and for the inspection thereof ;
- (d) for the appointment and duties of inspectors ;
- (e) requiring the rendering of returns by licensed buying agents ;
- (f) prescribing fees ;
- (g) prescribing the class or classes of employees and servants of a licensed buying agent to whom written authority may be given ; and
- (h) imposing penalties for offences against regulations under this Ordinance to a limit of a fine of one hundred pounds or imprisonment for twelve months or both such fine and imprisonment.

Colony and Protectorate of Nigeria—1948 Revision

CHAPTER 39

CO-OPERATIVE SOCIETIES

(*Colony and Protectorate*)

AN ORDINANCE TO MAKE PROVISION WITH RESPECT TO CO-OPERATIVE SOCIETIES.

Ordinances
No. 39 of
1935
11 of 1938
68 of 1945.

[6th February, 1936]⁽¹⁾

1. This Ordinance may be cited as the Co-operative Societies Ordinance; it shall apply to the Colony and Protectorate (including the Cameroons under British Mandate).

Short title
and
application.

2. Definitions :—

Interpre-
tation.

“bonus” means a share of the profits of a registered society divided among its members in proportion to the volume of business done with the society by them from which the profits of the society were derived ;

“bye-laws” means the registered bye-laws made by a society in the exercise of any power conferred by this Ordinance, and includes a registered amendment of the bye-laws ;

“central financing society” means a registered society of which the principal object is to make loans to other registered societies ;

“central society” means a registered society established to facilitate the operations of registered societies in accordance with co-operative principles and includes a central financing society ;

“committee” means the governing body of a registered society to whom the management of its affairs is entrusted ;

“dividend” means a share of the profits of a registered society divided among its members in proportion to the share capital held by them ;

“member” includes a person or registered society joining in the application for the registration of a society, and a person or registered society admitted to membership after registration in accordance with the bye-laws and regulations ;

“officer” includes a president, chairman, secretary, treasurer, member of committee, or other person empowered under

(1) See Notice 149 in Gazette 14 of 1936.

Co-operative Societies

the regulations or bye-laws to give directions in regard to the business of a registered society ;

“registered society” means a co-operative society registered under this Ordinance ;

“registrar” means a person appointed to perform the duties of a registrar of co-operative societies under this Ordinance.

Registration of Co-operative Societies

Power of Governor to appoint registrar.

3. The Governor may appoint a person to be registrar of co-operative societies for Nigeria, or any portion of it, and may appoint persons to assist such registrar, and may, by notice published in the Gazette, confer on any such persons all or any of the powers of a registrar under this Ordinance.

Seal.

4. Any person appointed as a registrar under section 3 shall have a seal of such device as may be approved by the Governor. Impressions of such seal shall be judicially noticed.

Societies which may be registered.

5. Subject to the provisions of this Ordinance, a society which has as its objects the promotion of the economic interests of its members in accordance with co-operative principles, or a society established for the purpose of facilitating the operations of such societies, may be registered under this Ordinance with or without limited liability.

Conditions of registration.

6. (1) No society, other than a society of which a registered society is a member, shall be registered under this Ordinance which does not consist of at least ten persons qualified for membership under this Ordinance.

(2) No society established for the purpose of facilitating the operations of registered societies shall be registered unless at least two registered societies are members thereof.

(3) (a) The word “co-operative” or its vernacular equivalent shall form part of the name of every society registered under this Ordinance.

(b) The word “limited” or its vernacular equivalent shall be the last word in the name of every society with limited liability registered under this Ordinance.

(c) Save in the case of a central financing society, the word “bank” or “banking” shall not form part of the name of any society registered under this Ordinance.

Colony and Protectorate of Nigeria—1948 Revision

CHAPTER 39

CO-OPERATIVE SOCIETIES

(*Colony and Protectorate*)

AN ORDINANCE TO MAKE PROVISION WITH RESPECT TO
CO-OPERATIVE SOCIETIES.

Ordinances
No. 39 of
1935
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[6th February, 1936]⁽¹⁾

1. This Ordinance may be cited as the Co-operative Societies Ordinance; it shall apply to the Colony and Protectorate (including the Cameroons under British Mandate).

Short title
and
application.

2. Definitions:—

Interpre-
tation.

- “bonus” means a share of the profits of a registered society divided among its members in proportion to the volume of business done with the society by them from which the profits of the society were derived ;
- “bye-laws” means the registered bye-laws made by a society in the exercise of any power conferred by this Ordinance, and includes a registered amendment of the bye-laws ;
- “central financing society” means a registered society of which the principal object is to make loans to other registered societies ;
- “central society” means a registered society established to facilitate the operations of registered societies in accordance with co-operative principles and includes a central financing society ;
- “committee” means the governing body of a registered society to whom the management of its affairs is entrusted ;
- “dividend” means a share of the profits of a registered society divided among its members in proportion to the share capital held by them ;
- “member” includes a person or registered society joining in the application for the registration of a society, and a person or registered society admitted to membership after registration in accordance with the bye-laws and regulations ;
- “officer” includes a president, chairman, secretary, treasurer, member of committee, or other person empowered under

(1) See Notice 149 in Gazette 14 of 1936.

Co-operative Societies

the regulations or bye-laws to give directions in regard to the business of a registered society ;

“registered society” means a co-operative society registered under this Ordinance ;

“registrar” means a person appointed to perform the duties of a registrar of co-operative societies under this Ordinance.

Registration of Co-operative Societies

Power of
Governor to
appoint
registrar.

3. The Governor may appoint a person to be registrar of co-operative societies for Nigeria, or any portion of it, and may appoint persons to assist such registrar, and may, by notice published in the Gazette, confer on any such persons all or any of the powers of a registrar under this Ordinance.

Seal.

4. Any person appointed as a registrar under section 3 shall have a seal of such device as may be approved by the Governor. Impressions of such seal shall be judicially noticed.

Societies
which may
be registered.

5. Subject to the provisions of this Ordinance, a society which has as its objects the promotion of the economic interests of its members in accordance with co-operative principles, or a society established for the purpose of facilitating the operations of such societies, may be registered under this Ordinance with or without limited liability.

Conditions
of registra-
tion.

6. (1) No society, other than a society of which a registered society is a member, shall be registered under this Ordinance which does not consist of at least ten persons qualified for membership under this Ordinance.

(2) No society established for the purpose of facilitating the operations of registered societies shall be registered unless at least two registered societies are members thereof.

(3) (a) The word “co-operative” or its vernacular equivalent shall form part of the name of every society registered under this Ordinance.

(b) The word “limited” or its vernacular equivalent shall be the last word in the name of every society with limited liability registered under this Ordinance.

(c) Save in the case of a central financing society, the word “bank” or “banking” shall not form part of the name of any society registered under this Ordinance.

Co-operative Societies

7. (1) For purposes of registration an application to be registered shall be made to the registrar. Application for registration.

(2) The application shall be signed—

(a) in the case of a society of which no member is a registered society, by at least ten persons qualified for membership under this Ordinance; and

(b) in the case of a society of which a registered society is a member, by a duly authorised person on behalf of every such registered society, and where all the members of the society are not registered societies, by ten other members or, where there are less than ten other members, by all of them.

(3) The application shall contain details of the objects of the societies and such application shall be submitted by the registrar to the Governor and shall be subject to the Governor's approval:

Provided that where the Governor has given his general approval to certain objects and the registrar has been informed of such fact an application in respect of any such object need not formally be referred by the registrar to the Governor but the registrar may endorse the application to the effect that it is in respect of an object approved of by the Governor and such endorsement shall, for the purposes of this Ordinance, serve as the Governor's approval to such application. (*Inserted by No. 68 of 1945.*)

(4) The application shall be accompanied by two copies of the proposed bye-laws of the society, and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the registrar may require.

8. If the registrar is satisfied that the objects of the society have been approved as in sub-section (3) of section 7 and that the society has complied with the provisions of this Ordinance and the regulations and that its proposed bye-laws are not contrary to the Ordinance or to the regulations, he may, if he thinks fit, register the society and its bye-laws. Registration.

(*Amended by No. 68 of 1945.*)

9. The registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold movable and immovable property of every description, to enter into Registered societies to be bodies corporate.

Co-operative Societies

contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purposes of its constitution.

Evidence of registration.

10. A certificate of registration signed and sealed by the registrar shall be conclusive evidence that the society therein mentioned is duly registered unless it is proved that the registration of the society has been cancelled.

Power to exempt societies from requirements as to registration.

11. Notwithstanding anything contained in this Ordinance the Governor may, by writing under his hand and subject to such conditions, if any, as he may impose, exempt any particular society from any of the requirements of this Ordinance as to registration.

Duties and Privileges of Registered Societies

Power to make bye-laws.

12. Every registered society may, subject to the approval of the registrar, make bye-laws for any such things as are necessary or desirable for the purposes for which such society is established.

Power of fining members.

13. A registered society may make bye-laws conferring upon it the power to impose fines upon its members by the authority of the general meeting or of the committee or in such other manner as such bye-laws may provide. Such fines shall be debts due to the society.

Change of name.

14. A society may, by an amendment of its bye-law on the subject duly registered, change its name, but such change shall not affect any right or obligation of the society or of any of its members or past members, and any legal proceedings pending may be continued by or against the society under its new name.

Amendment of the bye-laws of a registered society.

15. (1) No amendment of the bye-laws of a registered society shall be valid until the same has been registered under this Ordinance, for which purpose two copies of the amendment shall be forwarded to the registrar.

(2) If the registrar is satisfied that the amendment of the bye-laws is not contrary to this Ordinance or to the regulations, he may, if he thinks fit, register the amendment.

(3) When the registrar registers an amendment of the bye-laws of a registered society, he shall issue to the society a copy of the amendment certified and sealed by him, and such copy so certified and sealed shall be conclusive evidence that the amendment is duly registered.

Co-operative Societies

7. (1) For purposes of registration an application to be registered shall be made to the registrar. Application for registration.

(2) The application shall be signed—

(a) in the case of a society of which no member is a registered society, by at least ten persons qualified for membership under this Ordinance ; and

(b) in the case of a society of which a registered society is a member, by a duly authorised person on behalf of every such registered society, and where all the members of the society are not registered societies, by ten other members or, where there are less than ten other members, by all of them.

(3) The application shall contain details of the objects of the societies and such application shall be submitted by the registrar to the Governor and shall be subject to the Governor's approval :

Provided that where the Governor has given his general approval to certain objects and the registrar has been informed of such fact an application in respect of any such object need not formally be referred by the registrar to the Governor but the registrar may endorse the application to the effect that it is in respect of an object approved of by the Governor and such endorsement shall, for the purposes of this Ordinance, serve as the Governor's approval to such application. (*Inserted by No. 68 of 1945.*)

(4) The application shall be accompanied by two copies of the proposed bye-laws of the society, and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the registrar may require.

8. If the registrar is satisfied that the objects of the society have been approved as in sub-section (3) of section 7 and that the society has complied with the provisions of this Ordinance and the regulations and that its proposed bye-laws are not contrary to the Ordinance or to the regulations, he may, if he thinks fit, register the society and its bye-laws. Registration.

(*Amended by No. 68 of 1945.*)

9. The registration of a society shall render it a body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold movable and immovable property of every description, to enter into Registered societies to be bodies corporate.

Co-operative Societies

contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purposes of its constitution.

Evidence of registration.

10. A certificate of registration signed and sealed by the registrar shall be conclusive evidence that the society therein mentioned is duly registered unless it is proved that the registration of the society has been cancelled.

Power to exempt societies from requirements as to registration.

11. Notwithstanding anything contained in this Ordinance the Governor may, by writing under his hand and subject to such conditions, if any, as he may impose, exempt any particular society from any of the requirements of this Ordinance as to registration.

Duties and Privileges of Registered Societies

Power to make bye-laws.

12. Every registered society may, subject to the approval of the registrar, make bye-laws for any such things as are necessary or desirable for the purposes for which such society is established.

Power of fining members.

13. A registered society may make bye-laws conferring upon it the power to impose fines upon its members by the authority of the general meeting or of the committee or in such other manner as such bye-laws may provide. Such fines shall be debts due to the society.

Change of name.

14. A society may, by an amendment of its bye-law on the subject duly registered, change its name, but such change shall not affect any right or obligation of the society or of any of its members or past members, and any legal proceedings pending may be continued by or against the society under its new name.

Amendment of the bye-laws of a registered society.

15. (1) No amendment of the bye-laws of a registered society shall be valid until the same has been registered under this Ordinance, for which purpose two copies of the amendment shall be forwarded to the registrar.

(2) If the registrar is satisfied that the amendment of the bye-laws is not contrary to this Ordinance or to the regulations, he may, if he thinks fit, register the amendment.

(3) When the registrar registers an amendment of the bye-laws of a registered society, he shall issue to the society a copy of the amendment certified and sealed by him, and such copy so certified and sealed shall be conclusive evidence that the amendment is duly registered.

Co-operative Societies

16. Every registered society shall have an address, registered in accordance with the regulations, to which all notices and communications may be sent, and shall send to the registrar notice of every change thereof.

Address of societies.

17. Every registered society shall keep a copy of this Ordinance and of the regulations and of its bye-laws open to inspection, free of charge, at all reasonable times at the registered address of the society.

Copy of Ordinance, regulations and bye-laws to be open to inspection.

18. (1) A registered society shall not make a loan to any person other than a member :

Restrictions on loans.

Provided that, with the general or special sanction of the registrar, a registered society may make loans to another registered society.

(2) The Governor may by order prohibit or restrict the lending of money on mortgage of immovable property by all or any registered societies.

19. Subject to the provisions of section 20, a registered society shall receive deposits and loans from persons who are not members only to such extent and under such conditions as may be prescribed by the regulations or bye-laws.

Restrictions on borrowing.

20. (1) A registered society may receive deposits from or for the benefit of minors, and it shall be lawful for a registered society to pay to such minors the interest which may become due on such deposits. Any deposit made by or on behalf of any minor may be paid to him personally, or to his guardian for his use if the deposit was by any person other than the minor, together with the interest accrued thereon.

Deposits by minors.

(2) A receipt signed or otherwise validly given by a minor or his guardian for money paid to him under this section shall be a sufficient discharge therefor.

21. Save as provided in sections 18, 19 and 20 the transactions of a registered society with persons other than members shall be subject to such prohibitions and restrictions, if any, as may be prescribed.

Restrictions on other transactions with non-members.

22. All moneys payable or due by a member to a registered society under this Ordinance or the regulations made thereunder or the bye-laws of the society or in connexion with its business shall be a debt due from such member to the society.

Debts of members to society.

Co-operative Societies

Charge in respect of shares and deposits of members.

23. A registered society shall have a charge upon the shares or interest in the capital and on the deposits of a member or past member and upon any dividend, bonus, or accumulated funds payable to a member or past member in respect of any debt due from such member or past member to the society, and may set off any sum credited or payable to a member or past member in or towards payment of any such debt.

Priority of claim of society against crops, cattle, and other property.

24. Subject to the prior claims of the Government on the property of its debtors and of landlords in respect of rent, or any money recoverable as rent—

(a) any debt or outstanding demand owed to a society by any member or past member shall be a first charge—

(i) upon crops or other agricultural produce raised in whole or in part with a loan taken from the society by such member or past member; and

(ii) upon any cattle, fodder for cattle, agricultural or industrial implements, or raw materials for manufacture, or workshops, stores or places of business, supplied to such member or past member by the society, or purchased by him in whole or in part with any loan, whether in money or goods, given him by the society :

Provided that nothing contained herein shall affect the claims of any *bona fide* purchaser or transferee for value without notice of any such crops, or other agricultural produce, cattle, fodder for cattle, or raw materials for manufacture, or agricultural or industrial implements or workshops, stores or places of business ;

(b) any outstanding dues payable to a housing society by any member or past member in respect of rent, share capital, loans, purchase money, or any other rights or amounts payable to such society, shall be a first charge upon his interest in the immovable property of the society.

Share or interests not liable to attachment.

25. Subject to the provisions of section 23 the share or interest of a member in the capital of a registered society shall not be liable to attachment or sale under any decree or order of a court in respect of any debt or liability incurred by such member, and the official receiver under any law relating to bankruptcy which may for the time being be in force shall not be entitled to or have any claim on such share or interest.

Co-operative Societies

26. A registered society may invest or deposit its funds— Investment of funds.
- (a) in the Post Office Savings Bank ; or
 - (b) in any securities approved by the registrar, issued or guaranteed by a Government under the British Crown ;
or
 - (c) in the shares of any other registered society ; or
 - (d) with any bank or person carrying on the business of banking, approved for this purpose by the registrar ; or
 - (e) in any other mode permitted by the regulations.

27. (1) A registered society, having as one of its objects the disposal of any produce of agriculture or animal husbandry or handicrafts, may contract with its members, either in its bye-laws or by a separate document, that they shall dispose of all their produce, or of such amounts or descriptions as may be stated therein, not being produce in respect of which they have previously entered into a contract for its disposal, to or through the society, and may in the contract provide for payment of a specific sum per unit of weight or other measure as liquidated damages for infringement of the contract, and such sum shall be a debt due to the society. Contract with members to dispose of produce.

(2) Any such contract shall, subject to any existing charges, create in favour of the society a first charge upon all produce mentioned therein in order to secure the due marketing of the same in accordance with the contract.

28. No society shall pay a dividend or bonus or otherwise distribute any part of its net surplus except as provided in its bye-laws or until the proposed payment or distribution has been approved by the registrar. Net surplus not to be distributed without approval of registrar.

(Substituted by No. 68 of 1945.)

29. At least one-fourth of the net surplus disclosed in the profit and loss account for the year shall be carried to a fund to be called the reserve fund. The remainder of the net surplus, together with any balance remaining from previous years and available for distribution, may be divided among the members by way of dividend, bonus, or otherwise, or allocated to any funds constituted by the society, to such extent or under such conditions as may be prescribed by the regulations and bye-laws : Reserve fund, dividends and bonuses.

Provided that the registrar shall have power in the case of any society of limited liability to grant from time to time exemption from further contributions to the reserve fund, or to reduce the rate thereof. He shall also have power to revoke such exemption or reduction.

Power of registrar to prescribe with regard to certain matters.

30. (1) The registrar shall have power to give directions prescribing—

- (a) the accounts and books to be kept by a society ;
- (b) the returns to be submitted by a society to the registrar and the persons by whom and the form in which such returns shall be submitted ;
- (c) the maximum loan which may be made by a society to any of the members thereof without the prior consent of the registrar.

(2) Directions given by the registrar under this section may apply to all or any societies.

Proof of entries in societies' books.

31. (1) A copy of any entry in a book of a registered society regularly kept in the course of business shall, if certified in such manner as may be prescribed by the regulations, be received in any suit or legal proceedings as *prima facie* evidence of the existence of such entry and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

(2) No officer of a society shall in any legal proceedings to which the society is not a party be compelled to produce any of the society's books, the contents of which can be proved under sub-section (1), or to appear as a witness to prove the matters, transactions and accounts therein recorded, unless by order of the court made for special cause.

Exemption from compulsory registration of instruments relating to shares and debentures of registered society.

32. Nothing in the law relating to the registration of instruments for the time being in force shall apply to—

- (a) any instrument relating to shares in a registered society, notwithstanding that the assets of such society consist in whole or in part of immovable property ; or
- (b) any debenture issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property except in so far as it entitles the holder to a security afforded by a

Co-operative Societies

registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures ; or

- (c) any endorsement upon or transfer of any debentures issued by any such society ; or
- (d) any charge created in favour of a registered society by a member of that society in respect of any produce of his agriculture or his land.

33. (1) The Governor by a notice published in the Gazette may in the case of all or any registered societies reduce or remit—

Power to exempt from certain duties and fees.

- (a) the stamp duty with which, under any law for the time being in force, instruments executed by or on behalf of a registered society or by an officer or member and relating to the business of such society or any class of such instruments, are respectively chargeable ;
- (b) any fee payable under the law relating to the registration of instruments for the time being in force.

(2) The Governor may by a notice published in the Gazette cancel or modify any notice published under sub-section (1).

Membership, Rights and Liabilities of Members

34. (1) To be qualified for membership of a registered society a person must be—

Qualification for membership.

- (a) capable of entering into a legally enforceable contract ;
- (b) resident within the society's area as defined in its by-laws or, in the case of a society of limited liability, a holder of landed property within such area :

Provided that the registrar shall have power, in the case of a society of limited liability, to grant exemption from the second qualification.

(2) When any question arises, for the purposes of this section, as to whether any person is of the age referred to in paragraph (a) of sub-section (1) or as to the residence of any person, or as to whether any person is the holder of landed property, the same shall be decided by the committee, subject to an appeal to the registrar, whose decision shall be final.

Co-operative Societies

Member not to exercise rights until prescribed payment made.

35. No member of a registered society shall exercise the rights of a member unless or until he has made such payment to the society in respect of membership or acquired such interest in the society as may be prescribed by the regulations or bye-laws.

Restriction on interest of member of society.

36. No member, other than a registered society, shall hold more than one-fifth of the share capital of any co-operative society.

Restriction on membership of more than one society.

37. No member of any registered society which has power under its bye-laws to grant loans to its members shall, except with the sanction of the registrar first had and obtained, be a member of any other registered society having that power.

Votes of members.

38. (1) Each member of a registered society shall have one vote only as a member in the affairs of the society :

Provided that in the event of the votes given for and against any proposal being equal in number the chairman shall have a casting vote.

(2) A registered society which is a member of any other registered society may appoint, as its proxy, for the purpose of voting in the affairs of such other registered society, any one of its members.

Restrictions on transfer of share or interest.

39. (1) The transfer or charge of the share or interest of a member in the capital of a registered society shall be subject to such conditions as to maximum holding as may be prescribed by this Ordinance or by the regulations.

(2) In the case of a society registered with unlimited liability a member shall not transfer any share held by him or his interest in the capital of the society or any part thereof, unless—

(a) he has held such share or interest for not less than one year ; and

(b) the transfer or charge is made to the society or to a member of the society.

Transfer of interest on death of member.

40. (1) On the death of a member a registered society may transfer the share or interest of the deceased member to the person nominated in accordance with the regulations made in this behalf, or, if there is no person so nominated, to such person as may appear to the committee to be the legal personal representative of the deceased member, or pay to such nominee or

Co-operative Societies

legal personal representative, as the case may be, a sum representing the value of such member's share or interest, as ascertained in accordance with the regulations or bye-laws :

Provided that—

- (a) in the case of a society with unlimited liability, such nominee or legal personal representative, as the case may be, may require payment by the society of the value of the share or interest of the deceased member ascertained as aforesaid ; or
- (b) in the case of a society with limited liability, the society shall transfer the share or interest of the deceased member to such nominee or legal personal representative, as the case may be, being qualified in accordance with the regulations and bye-laws for membership of the society, or, on his application within one month of the death of the deceased member, to any person specified in the application who is so qualified.⁽¹⁾

(2) A registered society may pay all other moneys due to the deceased member from the society to such nominee or legal personal representative, as the case may be.

(3) All transfers and payments made by a registered society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

41. The liability of a past member for the debts of a registered society as they existed at the time when he ceased to be a member shall continue for a period of two years from the end of the financial year of the society following the date of his ceasing to be a member.

Liability of
past
members.

42. The estate of a deceased member shall be liable for a period of two years from the time of his decease for the debts of a registered society as they existed at the time of his decease.

Liability of
the estates
of deceased
members.

43. Any register or list of members or shares kept by any registered society shall be *prima facie* evidence of any of the following particulars entered therein :—

Register of
members.

- (a) the date at which the name of any person was entered in such register or list as a member ;
- (b) the date at which such person ceased to be a member.

⁽¹⁾ This sub-section was subsequently amended by the deletion of the proviso thereto and the substitution of a new proviso: see No. 7 of 1948.

Co-operative Societies

Statements
of members'
property
exempt from
disclosure
for certain
purposes.

44. All information contained in the books and accounts of a registered society relating to the property or the financial situation of the society's members shall be wholly exempt from disclosure for any purpose relating to any income or other tax or to rating. (Substituted by No. 11 of 1938.)

Disputes

Disputes.

45. (1) If any dispute touching the business of a registered society (other than a dispute regarding disciplinary action taken by the society or its committee against a paid servant of the society) arises—

(a) among members, past members and persons claiming through members, past members and deceased members; or

(b) between a member, past member or person claiming through a member, past member or deceased member and the society, its committee or any officer, agent or servant of the society; or

(c) between the society or its committee and any officer, agent or servant of the society; or

(d) between the society and any other registered society, such dispute may be referred to the registrar for decision.

Without prejudice to the generality of the provisions of this sub-section, a claim by a registered society for any debt or demand due to it from a member, past member or the nominee, legal personal representative of a deceased member, whether such debt or demand be admitted or not, shall be deemed to be a dispute touching the business of the society within the meaning of this sub-section.

(2) The registrar may, on receipt of such reference—

(a) decide the dispute himself; or

(b) subject to the provisions of any regulations, refer it for disposal to an arbitrator or arbitrators.

(3) Subject to the provisions of any regulations the registrar may withdraw any reference transferred under paragraph (b) of sub-section (2) and decide the dispute himself under paragraph (a) of the said sub-section.

(4) Where the registrar is satisfied that a party to any reference made to him under sub-section (1), with intent to defeat or delay the execution of any decision that may be passed thereon—

Co-operative Societies

(a) is about to dispose of the whole or any part of his property,
or

(b) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the registrar, the registrar may, unless adequate security is furnished, direct the conditional attachment of the said property or such part thereof as he thinks necessary; and such attachment shall have the same effect as if it had been made by a competent court.

(5) The registrar may, of his own motion or on the application of a party to a reference, revise any decision thereon by the arbitrator or arbitrators to whom it was referred.

(6) (a) Any decision given by the registrar under paragraph (a) of sub-section (2) or under sub-section (5) shall be final and shall not be called in question in any court.

(b) Any decision given by an arbitrator or arbitrators under paragraph (b) of sub-section (2) shall, save as otherwise provided in sub-section (5), be final and shall not be called in question in any court.

(c) The decision shall, on the application of the party in whose favour it is given, be enforced by any court which would have jurisdiction in civil suits between the parties to the dispute to give a judgment for the payment of the amount awarded or, where the decision does not relate to the payment of money, to give a similar decision, in the same manner as if the decision had been a judgment or decision of such court.

Audit, Inspection and Inquiries

46. (1) The registrar shall audit or cause to be audited by some person authorised by him in writing in this behalf the accounts of every registered society once at least in every year. Audit.

(2) The audit under sub-section (1) shall include an examination of overdue debts, if any, and a valuation of the assets and liabilities of the society.

(3) The registrar and every other person appointed to audit the accounts of a society shall have power when necessary—

(a) to summon at the time of his audit any officer, agent, servant or member of the society who he has reason to believe can give material information in regard to any transactions of the society or the management of its affairs; or

(b) to require the production of any book or document relating to the affairs of, or any cash or securities belonging to, the society by the officer, agent, servant or member in possession of such book, document, cash or securities.

Power of registrar to inspect.

47. The registrar, or any person authorised in writing in this behalf by the registrar, shall at all times have access to all books, accounts, papers, cash and securities of a society, and every officer of the society shall furnish such information in regard to the transactions and working of the society as the person making such inspection may require.

Inquiry by registrar.

48. (1) The registrar may of his own motion, and shall on the application of a majority of the committee, or of not less than one-third of the members, hold an inquiry or direct some person authorised by him in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a registered society.

(2) All officers and members of the society shall produce such of the books and documents of the society and furnish such information in regard to the affairs of the society, as the registrar or the person so authorised by the registrar may require.

Inspection of books of indebted society.

49. (1) The registrar shall, on the application of a creditor of a registered society, inspect or direct some person authorised by him in writing in this behalf to inspect the books of the society :

Provided that—

(a) the applicant satisfies the registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(b) the applicant deposits with the registrar such sum as security for the costs of the proposed inspection as the registrar may require.

(2) The registrar shall communicate the results of any such inspection to the creditor.

Costs of inquiry or inspection.

50. Where an inquiry is held under section 48 or an inspection is made under section 49 the registrar may by a certificate under his hand and seal make an award apportioning the costs, or such part of the costs as he may think right, between the society, the members or creditor demanding an inquiry or inspection, and the officers or former officers of the society.

Co-operative Societies

51. Any sum awarded by way of costs under section 50 shall be recoverable in the same manner as a debt in any court having jurisdiction over the person against whom the award is made, on the production before the court of the certificate referred to in the said section. Recovery of costs.

52. (1) Such sums as may be due from a registered society or from an officer or member or past member of a registered society as such to the Government under section 50 may be recovered in the manner provided for the recovery of debts due to the Government under the law for the time being in force. Recovery of sums due to Government.

(2) Sums due from a registered society to the Government and recoverable under sub-section (1) may be recovered first, from the property of the society; secondly, in the case of a society of which the liability of members is limited, from the members subject to the limit of their liability; and thirdly, in the case of other societies, from the members.

Dissolution of a Registered Society

53. (1) If the registrar, after an inquiry has been held under section 48 or after an inspection has been made under section 49 or on receipt of an application made by three-fourths of the members of a registered society, is of opinion that the society ought to be dissolved, he may cancel the registration of the society. Dissolution.

(2) Any member of a society may, within two months from the date of an order made under sub-section (1), appeal from such order to the Governor.

(3) Where no appeal is presented within two months from the making of an order cancelling the registration of a society, the order shall take effect on the expiry of that period.

(4) Where an appeal is presented within two months the order shall not take effect until it is confirmed by the Governor.

(5) Where the registrar cancels the registration of a society under sub-section (1) he may make such order as he may deem fit respecting the custody of the books and documents and the protection of the assets of the society until the order cancelling the registration of the society takes effect.

54. Where it is a condition of the registration of a society that it should consist of at least ten members the registrar may cancel the registration of the society if at any time it is proved Cancellation of registration of society.

to his satisfaction that the number of the members has been reduced to less than ten.

Effect of
cancellation
of registra-
tion.

55. Where the registration of a society is cancelled the society shall cease to exist as a corporate body—

- (a) in the case of cancellation in accordance with the provisions of section 53, from the date on which the order of cancellation takes effect ;
- (b) in the case of cancellation in accordance with the provisions of section 54, from the date of the order :

Provided that the privileges conferred on registered societies by sections 23, 24, 25, 33 and 40 shall survive in any duly appointed liquidator.

Liquidation
after cancel-
lation of
registration
of society.

56. Where the registration of a society is cancelled under section 53 or section 54, the registrar may appoint one or more persons to be, under his guidance and control, liquidators of the society.

Liquidator's
powers.

57. A liquidator appointed under section 56 shall, subject to any limitation under section 58, have power to—

- (a) decide, subject to any bye-laws defining the liability of members, the contributions to be made by members and past members of the society to its assets ;
- (b) appoint by notice in the Gazette a day before which creditors shall state their claims for admission or be excluded from any distribution made before they have proved them ;
- (c) decide any question of priority which arises between creditors ;
- (d) institute and defend suits and undertake legal proceedings on behalf of the society as "liquidator" of the society ;
- (e) decide by what persons and in what proportions the costs of liquidation are to be borne ;
- (f) give such directions in regard to the collection and distribution of assets as may be necessary in the course of winding up the society ;
- (g) compromise any claim by or against the society provided the sanction of the registrar has first been obtained ;
- (h) call such general meetings of members as may be necessary for the proper conduct of the liquidation, giving not less than fourteen days' notice of every such meeting ;

Co-operative Societies

- (i) take possession of the books, documents and assets of the society ;
- (j) sell the property of the society ;
- (k) carry on the business of the society so far as may be necessary for winding it up beneficially, provided that he shall not for this purpose be entitled to issue any loan ;
- (l) arrange for the distribution of the assets of the society in a convenient manner when a scheme of distribution has been approved by the registrar.

58. (1) In exercise of the powers of control and revision conferred upon him by this Ordinance the registrar may—

Power of registrar to control liquidation.

- (a) rescind, vary or stay any decision, appointment, direction or other action given, made or taken by the liquidator, and give, make or take such other decision, appointment, direction or other action as he considers to be required :

Provided that this power shall not be exercised to the prejudice of a *bona fide* transferee of any property for value ;

- (b) remove a liquidator from office ;
- (c) call for all books, documents, and assets of the society ;
- (d) withdraw from court any action instituted by a liquidator ;
- (e) by order in writing limit the powers of a liquidator under section 57 ;
- (f) require accounts to be rendered to him by the liquidator at his discretion ;
- (g) procure the auditing of the liquidator's accounts and authorise the distribution of the assets of the society ;
- (h) make an order for the remuneration of the liquidator ;
- (i) refer any subject of dispute between a liquidator and any third party to arbitration if that party shall have signed an assent to be bound by the decision of the arbitrator.

(2) The decision of any arbitrator so appointed shall be binding upon the parties and shall be enforceable as an order of the registrar under section 61.

59. Regulations may be made for the purpose of providing for an appeal to the Supreme Court against any order made—

- (a) by a liquidator under paragraph (a), (c) or (e) of section 57 ; and

Appeals from decisions of liquidator and registrar.

Co-operative Societies

(b) by the registrar rescinding or varying, or given in substitution for, any order of the liquidator made under any of the said paragraphs.

Attendance of witnesses and production of documents.

60. Subject to anything in the regulations provided, the registrar and any liquidator appointed under this Ordinance shall, in so far as such powers are necessary for carrying out the purposes of sections 57 and 58, have all such powers as are vested in a magistrate on the occasion of any action in respect of summoning parties, enforcing the attendance of witnesses and compelling the production of documents.

Enforcement of decisions of liquidator and registrar.

61. Any decision of a liquidator or the registrar given under section 57 or 58 which involves the payment of any money by any person, may be enforced by any court having jurisdiction in the same manner as an order of the said court.

Limitation of the jurisdiction of courts.

62. Save in so far as is hereinbefore expressly provided, no court shall have any jurisdiction in respect of any civil matter connected with the dissolution of a registered society.

Closure of liquidation.

63. (1) When a liquidation has been closed and any creditor of a liquidated society has not claimed or received what is due to him under the scheme of distribution, the closing of the liquidation shall be published in the Gazette and all claims against the funds of the society liquidated shall be prescribed when two years have elapsed from the date of the publication of the Gazette notice.

(2) All money lying thus unclaimed shall be available for use by the registrar for any administrative or co-operative purpose at his discretion.

Regulations

Power to make regulations.

64. (1) The Governor in Council may make regulations respecting the duties and functions of the registrar and may, for all or any registered society, make regulations with regard to such society and for the purposes of this Ordinance. (*Substituted by No. 68 of 1945.*)

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may—

(a) subject to the provision of section 36, prescribe the maximum number of shares or portion of the capital of a society which may be held by a member ;

Co-operative Societies

- (b) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of societies, and the procedure to be followed with regard to such applications ;
- (c) prescribe the matters in respect of which a society may or shall make bye-laws and for the procedure to be followed in making, altering and revoking bye-laws, and the conditions to be satisfied prior to such making, alteration or revocation ;
- (d) prescribe the conditions to be complied with by persons applying for admission or admitted as members and provide for the election and admission of members, and the payment to be made and the interests to be acquired before the exercise of the right of membership ;
- (e) provide for the consent of any authority before funds are raised by means of shares or debentures or otherwise, regulate the manner in which the same are to be raised and prescribe the form in which any application for financial assistance from the Government shall be made ;
- (f) provide for general meetings of the members, empower the registrar or any person authorised by him to summon such meetings, provide for the procedure at such meetings, and the powers to be exercised by such meetings, and the appointment of representatives of affiliated societies to the meetings of central societies ;
- (g) provide for the appointment, suspension and removal of the members of the committee and other officers, and for the procedure at meetings of the committee, and for the powers to be exercised and the duties to be performed by the committee and other officers ;
- (h) provide for the audit of the accounts and books to be kept by a society and the charges, if any, to be made for such audit ;
- (i) provide for the periodical publication of a balance sheet showing the assets and liabilities of a society ;
- (j) provide for the persons by whom and the form in which copies of entries in books of societies may be certified ;
- (k) provide for the formation and maintenance of a register of members and, where the liability of members is limited by shares, of the register of shares ;

Co-operative Societies

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- (l) provide for the withdrawal and expulsion of members and for the payments, if any, to be made to members who withdraw or are expelled ;
 - (m) provide for the mode in which the value of a deceased member's interest shall be ascertained and for the nomination of a person to whom such interest may be paid or transferred ;
 - (n) provide for the mode in which the value of the interest of a member who has become of unsound mind and incapable of managing himself or his affairs shall be ascertained, and for the nomination of any person to whom such interest may be paid or transferred ;
 - (o) provide that the giving of a receipt by or on behalf of a minor shall be a valid discharge for the sums so paid ;
 - (p) prescribe the conditions to be complied with by members applying for loans, and make provision with respect to the periods for which loans may be made and the amounts which may be lent to, and the payments to be made by, an individual member ;
 - (q) prescribe the maximum rate of interest which may be charged on loans by societies and the maximum rate of interest which may be paid on deposits with societies ;
 - (r) provide for the formation and maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of the society ;
 - (s) prescribe the extent to which a society may limit the number of its members ;
 - (t) prescribe the conditions under which accumulated funds may be distributed to the members of a society and the maximum rate of dividend which may be paid by societies ;
 - (u) prescribe the procedure to be followed by a liquidator appointed under section 56 ;
 - (v) prescribe in accordance with section 59 the cases in which an appeal shall lie from an order of a liquidator or the registrar, and prescribe the procedure to be followed in presenting and disposing of such appeals.
- (3) In any case where the registrar is satisfied that a substantial number of members of any society are unacquainted

Co-operative Societies

with the English language, he shall cause such regulations to be translated into a language with which such members are acquainted, and additionally to be made known in such manner as is customary for the community concerned.

Miscellaneous

65. The Governor, by writing under his hand, may exempt any particular registered society from any of the provisions of this Ordinance or direct that such provisions shall apply to such society with such modifications as the Governor may specify.

Power to exempt registered societies from provisions of the Ordinance.

66. (1) It shall be an offence under this Ordinance if—

Offences.

(a) a society or an officer or a member thereof wilfully neglects or refuses to do any act or to furnish any information required for the purposes of this Ordinance by the registrar or other person duly authorised by him in writing in this behalf ; or

Wilful neglect or default by a society.

(b) a society or an officer or member thereof wilfully makes a false return or furnishes false information ; or

Wilful furnishing of false information.

(c) any person wilfully and without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Ordinance or does not furnish any information lawfully required from him by a person authorised to do so under the provisions of this Ordinance.

Disobedience of summons, requisition or order.

(2) Every society, officer or member of a society or other person guilty of an offence under this section shall be liable to a fine of twenty-five pounds.

67. (1) No person other than a registered society shall trade or carry on business under any name or title of which the word "co-operative" is part without the sanction of the Governor.

Prohibition of the use of the word "co-operative".

(2) Whoever contravenes the provisions of this section shall be liable to a fine of five pounds, and in the case of a continuing offence to a further fine of one pound for each day during which the offence continues.

68. (1) The provisions of the Companies Ordinance and of the Moneylenders Ordinance shall not apply to societies registered under this Ordinance.

Restriction on the application of Chapters 38 and 136.

Co-operative Societies

- Cap. 13. (2) The provisions of the Arbitration Ordinance shall not apply to proceedings under section 45 of this Ordinance.
- Cap. 165. (3) The provisions of the Pawnbrokers Ordinance shall not apply to agricultural produce or the products of handicraftsmen pledged, pawned or otherwise delivered to a society registered under this Ordinance, by the members of the society.

Co-operative Societies

with the English language, he shall cause such regulations to be translated into a language with which such members are acquainted, and additionally to be made known in such manner as is customary for the community concerned.

Miscellaneous

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Wilful neglect or default by a society.

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Wilful furnishing of false information.

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Restriction on the application of Chapters 38 and 136

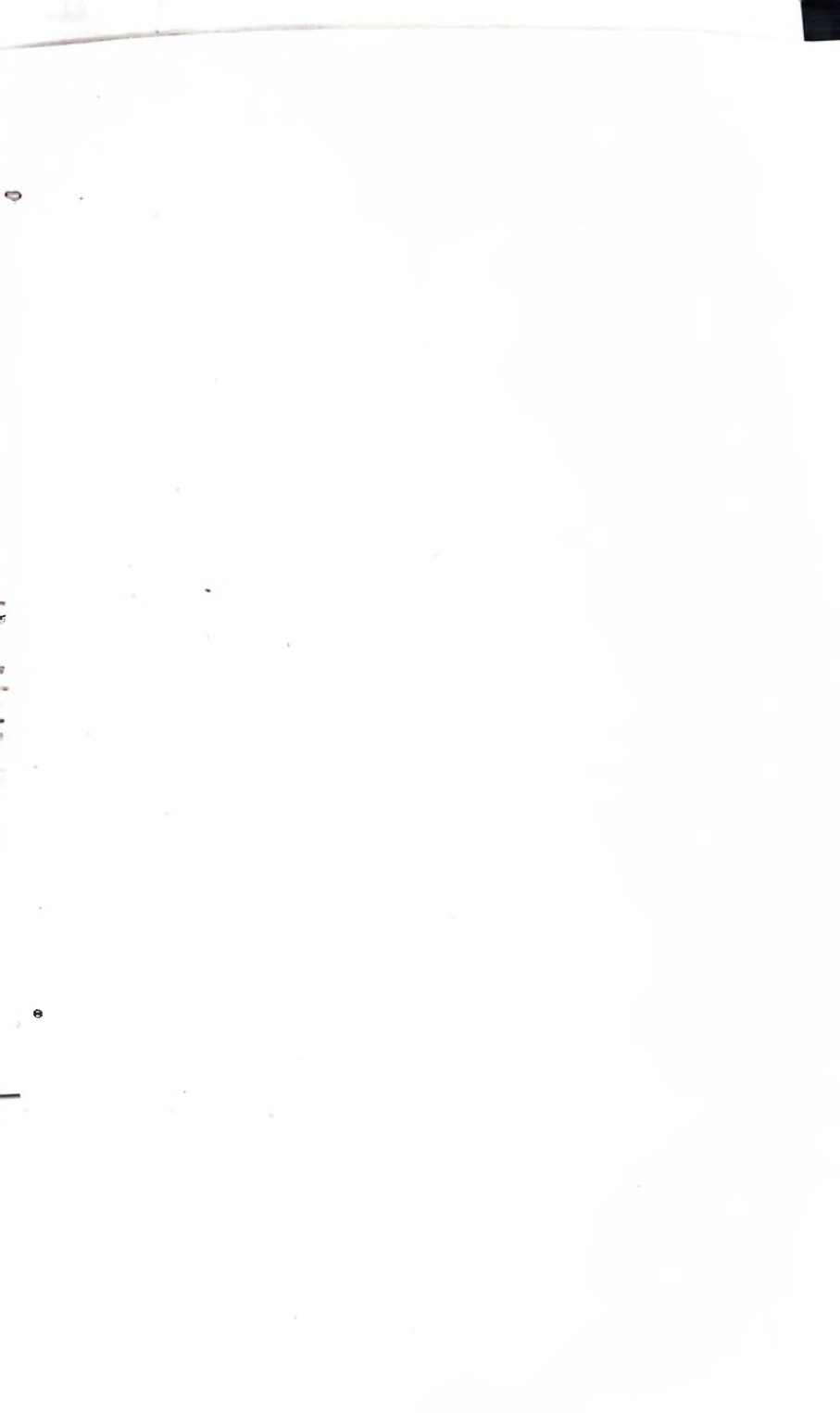
Co-operative Societies

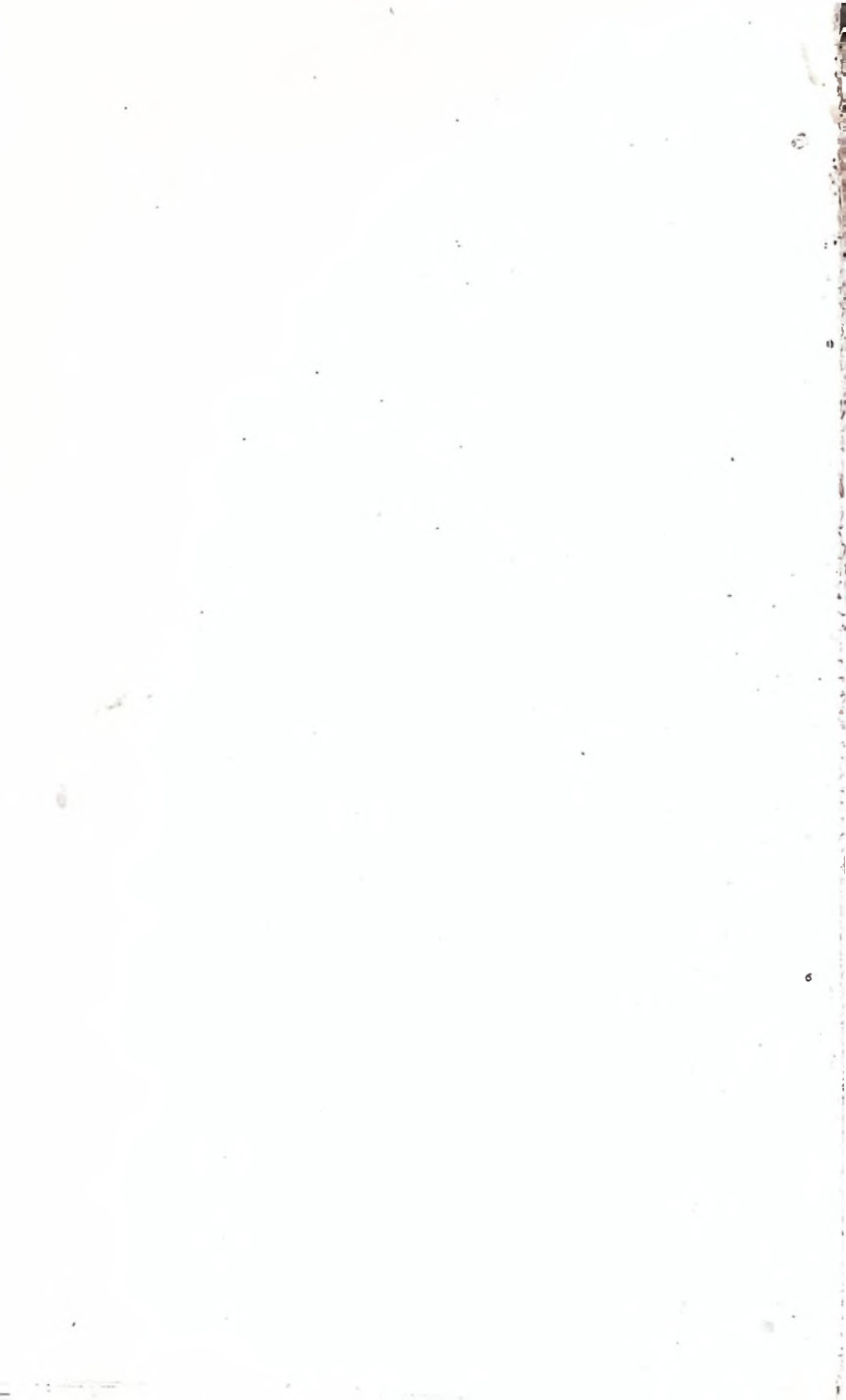
Cap. 13.

(2) The provisions of the Arbitration Ordinance shall not apply to proceedings under section 45 of this Ordinance.

Cap. 165.

(3) The provisions of the Pawnbrokers Ordinance shall not apply to agricultural produce or the products of handicraftsmen pledged, pawned or otherwise delivered to a society registered under this Ordinance, by the members of the society.





Assented to in His Majesty's name this 5th day of April, 1949.

J. S. MACPHERSON,
Governor.

(L.S.)

No. 13



1949

Colony and Protectorate of Nigeria

IN THE THIRTEENTH YEAR OF THE REIGN OF
HIS MAJESTY KING GEORGE VI
SIR JOHN STUART MACPHERSON, K.C.M.G.
Governor and Commander-in-Chief

AN ORDINANCE TO MAKE PROVISION FOR THE MARKETING AND EXPORT OF NIGERIAN COTTON AND FOR MATTERS CONNECTED THEREWITH. Title.

[

]

Date of
commence-
ment.

BE IT ENACTED by the Governor of Nigeria, with the advice and consent of the Legislative Council thereof, as follows:— Enactment.

PART I

PRELIMINARY

1. This Ordinance may be cited as the Nigeria Cotton Marketing Ordinance, 1949, and shall come into operation on a date to be fixed by the Governor by notice in the Gazette. Short title and commencement.

Interpretation.

2. In this Ordinance, unless the context otherwise requires—
- “cotton lint” means the product remaining after the seed and linters of plants of gossypium species have been removed from the seed cotton;
 - “cotton seed” means the seed of plants of gossypium species;
 - “crop year” means such period as may be specified by the Marketing Board;
 - “export” with its grammatical variations and cognate expressions means to take or cause to be taken out of Nigeria;
 - “licensed buying agent” means a buying agent in possession of a valid licence granted by the Marketing Board under section 17 for the purchase of seed cotton;
 - “licensed ginning agent” means a ginning agent in possession of a valid licence granted by the Marketing Board under section 17 for the ginning of seed cotton;
 - “the Marketing Board” means the Nigeria Cotton Marketing Board established under section 3;
 - “producer” means a person who grows cotton;
 - “purchase” with its grammatical variations and cognate expressions includes exchange or barter and any agreement or contract to purchase;
 - “Representative Committees” mean the Cotton Representative Committees established under section 30;
 - “seed cotton” means cotton lint and cotton seed before they have been separated;
 - “sell” with its grammatical variations and cognate expressions includes exchange or barter and any agreement or contract to sell.

PART II

ESTABLISHMENT AND CONSTITUTION OF THE MARKETING BOARD

3. (1) So soon as may be after the coming into operation of this Ordinance, there shall be established for the purposes thereof a Marketing Board to be known as the Nigeria Cotton Marketing Board, which shall be a body corporate with perpetual succession and a common seal and with power to sue and be sued in its corporate name.

(2) The Marketing Board shall consist of a Chairman to be appointed as such by the Governor, three official members to be appointed by the Governor and three Nigerian unofficial members to be appointed by the Governor.

(3) The Governor may appoint a person to be a member of the Marketing Board by name, or, in the case of an official member, by designating the office of which he is the holder.

4. The Chairman and other members of the Marketing Board shall, subject to the Governor's pleasure, hold office for three years from the dates of their respective appointments but shall be eligible for re-appointment. Term of office.

5. (1) When the Chairman is temporarily absent from Nigeria or otherwise is temporarily incapacitated from performing the functions of his office, the Governor may appoint a person, whether or not such person is a member of the Marketing Board, to be chairman during such period of absence or incapacity. Temporary absence of Chairman.

(2) Upon any temporary appointment being made under the provisions of sub-section (1), all the powers and duties of the Chairman under this Ordinance shall devolve upon the person so temporarily appointed.

6. When a member of the Marketing Board is temporarily incapacitated from performing his functions as a member by reason of his temporary absence from Nigeria or for any other good cause, the Governor may appoint a person temporarily to be a member during such period of incapacity, and during such period all the powers and duties of the member so temporarily incapacitated shall devolve upon the member so temporarily appointed. Temporary absence of a member.

7. Where upon any special occasion the Marketing Board desires to obtain the advice of any person upon any particular matter, the Marketing Board may co-opt such person to be a member for such meeting or meetings as may be required, and such person, while so co-opted, shall have all the rights and privileges of a member save that he shall not be entitled to vote upon any question. Power to co-opt.

8. The Chairman duly appointed under the provisions of this Ordinance shall have an original vote and, where the votes are equally divided, a casting vote in addition to his original vote. Chairman to have original and casting vote.

9. At a meeting of the Marketing Board three members and the Chairman shall be a quorum. Quorum.

10. The Marketing Board shall meet at least twice in each year and at such other times as may be required by Standing Orders made under section 15. Meetings.

Special meetings.

11. (1) Any two members of the Marketing Board may, by notice in writing signed by them, request the Chairman to call a special meeting of the Marketing Board for the purposes set out in such notice.

(2) A Cotton Representative Committee may, by a resolution signed by the majority of its members, request the Chairman of the Marketing Board to call a special meeting of that Board for the purposes set out in that resolution.

(3) The Chairman shall, upon receipt of any such notice or resolution, summon a special meeting of the Marketing Board for such purposes at the earliest convenient date.

Secretary to the Marketing Board.

12. (1) The Governor shall appoint by name or office a Secretary to the Marketing Board who shall conduct the correspondence and keep the records of the Marketing Board and perform such other duties as the Marketing Board may from time to time direct or which are placed upon him under the provisions of this Ordinance or any other written law.

(2) The Secretary shall be an officer, but not a member, of the Marketing Board.

Exemption from certain provisions of Income Tax Ordinance, 1943.

13. The Marketing Board is hereby exempted from the provisions of sections 26 and 43 of the Income Tax Ordinance, 1943.

Delegation of powers and appointment of agents.

14. (1) The Marketing Board may, with the approval of the Governor,—

(a) by the majority vote of all its members delegate to the Chairman the routine administration of the affairs of the Marketing Board;

(b) from time to time, in like manner, appoint agents to perform any of the powers or duties conferred or imposed upon the Marketing Board, and for the purposes of this paragraph the term "agent" shall include a department of the Government or a Native Authority or group of Native Authorities.

(2) Nothing in this section contained shall be deemed to authorise the Marketing Board to delegate to the Chairman the power to make Standing Orders or to do any act involving extraordinary expenditure or to fix or control the price of seed cotton, cotton seed or cotton lint or to authorise any agent to exercise any power or duty outside the scope of the written appointment of such agent.

15. The Marketing Board may, with the approval of the Governor, from time to time make Standing Orders providing for the proper conduct of its business and its meetings and in particular for—

Standing Orders.

- (a) the custody and use of the common seal; and
- (b) the method of entering into contracts and the execution thereof, and the signing of cheques and other similar instruments.

PART III

FUNCTIONS, POWERS, AND DUTIES OF THE
MARKETING BOARD

16. It shall be the duty of the Marketing Board to secure the most favourable arrangements for the purchase, grading, ginning, export and sale of seed cotton, cotton seed and cotton lint, and to assist in the development by all possible means of the cotton industry of Nigeria.

General functions of the Board.

17. In particular and without prejudice to the generality of the provisions of section 16, the Marketing Board shall have power—

Specific powers of the Marketing Board.

- (a) to control and fix the price to be paid by its buying agents from time to time for any grade of seed cotton at any place or within any specified area, and similarly to notify such prices in such manner as the Marketing Board may deem requisite;
- (b) to prescribe grades of seed cotton to be purchased by its buying agents;
- (c) to purchase such seed cotton for export, or for sale under the provisions of section 42, and to do all things necessary for and in connection with the purchase of such produce;
- (d) to appoint licensed buying agents and licensed ginning agents;
- (e) to control and fix the prices to be paid from time to time to licensed buying agents for the seed cotton which they purchase on behalf of the Marketing Board;
- (f) to control and fix the payment to be made to licensed ginning agents for ginning;
- (g) to grant, renew or withhold licences for each crop year in respect of licensed buying agents, to impose conditions upon the grant or renewal of such licences, whether in respect of the area in which the produce

- is to be purchased or sold, or in respect of the quality of the produce so to be purchased or sold or otherwise disposed of, and to cancel or suspend any licence for a breach of any such condition or for other good cause;
- (h) to grant, renew or withhold licences for ginning for such period as the Marketing Board may fix;
 - (i) to grant, withhold or cancel in its absolute discretion any written authority given under section 40 or 41;
 - (j) to do all things necessary for and in connection with the marketing, transporting, packing, exporting, shipping, storage and sale of seed cotton, cotton lint and cotton seed;
 - (k) to apply its funds to the purposes prescribed by section 26;
 - (l) to prescribe specific periods during which the buying of seed cotton shall be prohibited, restricted or allowed;
 - (m) to sell such amount of cotton lint or cotton seed as may be considered advisable for local processing or use.

Marketing Board to purchase seed cotton offered to it.

18. The Marketing Board shall, subject to the provisions of this Ordinance, purchase all seed cotton which is graded as suitable for ginning and offered for sale to it.

Power to Marketing Board to enter into arrangements.

19. The Marketing Board may, from time to time, enter into any arrangement with the Government of any country or with any department, authority or person in any country, for or in connection with any of its functions under this Ordinance.

Marketing Board to consult Cotton Representative Committee.

20. (1) The Marketing Board shall seek the advice of the Cotton Representative Committees concerned on all matters in connection with the purchase and grading of seed cotton and with the development of the cotton industry in Nigeria in general.

(2) The Marketing Board may refer any matter in connection with the exercise of its functions, powers and duties to the Cotton Representative Committee concerned for advice.

(3) If the Marketing Board fails to accept the advice offered to it by a Cotton Representative Committee on any matter within the scope of sub-section (1), the Chairman shall forthwith report the matter to the Governor in Council with the reasons for such refusal.

21. (1) As soon as may be after the last day of the crop year, the Marketing Board shall prepare a report of its operations during the preceding year, and shall forward such report to the Governor in Council, together with a certified copy of the audited accounts of the Marketing Board. Annual Report and Statement of Accounts.

(2) The annual report and the certified copy of the audited accounts of the Marketing Board shall be published in such manner as the Governor in Council may direct and shall be laid upon the table of the Legislative Council.

PART IV
FINANCIAL PROVISIONS RELATING TO THE
MARKETING BOARD

22. The Marketing Board may, with the approval of the Governor in Council, purchase, lease, hold, manage and dispose of any property whatsoever whether real or personal and whether by way of investment or otherwise, and may enter into any contract. Power to Board to acquire real and personal property, and to contract.

23. (1) Moneys standing to the credit of the Marketing Board may, from time to time, be invested in securities approved either generally or specifically by the Governor, and the Marketing Board may, from time to time, with like approval, sell any or all of such securities. Investments.

(2) (a) It shall be lawful for the Board to make and for the Government to receive loans out of moneys standing to the credit of the Board upon such terms as may be agreed by and between the Board and the Government.

(b) An agreement for a loan made pursuant to the provisions of paragraph (a) shall be of no force or effect whatsoever until the terms thereof have been approved by the Legislative Council by resolution.

24. The Marketing Board may, with the approval of the Governor in Council, from time to time borrow, whether by way of mortgage or otherwise, such sums of money for and in connection with the exercise of its functions, powers and duties under this Ordinance as the Marketing Board may deem necessary. Power to borrow.

25. The funds and resources of the Marketing Board shall be— Funds of the Marketing Board.

- (a) such sums as may be appropriated, from time to time, to the Marketing Board by any vote of the Legislative Council or by any resolution of the Legislative Council allotting moneys under the provisions of any written law;

- (b) moneys derived from the sale of cotton lint or cotton seed under the provisions of this Ordinance;
- (c) moneys earned or arising from any property and investments acquired by or vested in the Marketing Board;
- (d) moneys raised by loan under the powers to borrow vested in the Marketing Board by this Ordinance;
- (e) all other sums or property which may in any manner become payable to or vested in the Marketing Board in respect of any matter incidental to its functions, powers and duties.

Expenditure. 26. The Marketing Board may from time to time apply the funds at its disposal—

- (a) to or in connection with the purchase of seed cotton and the ginning thereof;
- (b) for and in connection with all or any of its functions, powers and duties under the provisions of this Ordinance;
- (c) to the cost of the administration of the Marketing Board;
- (d) to the remuneration, honoraria and expenses of the members of the Marketing Board or of any class of member in respect of their duties under this Ordinance;
- (e) to the cost of the administration of the Cotton Representative Committees and the remuneration, honoraria and expenses of their members or any class of members in respect of their duties under this Ordinance;
- (f) to the payment of the salaries, gratuities or pensions of the servants of the Marketing Board;
- (g) to the interest payable in respect of any moneys borrowed under the provisions of this Ordinance;
- (h) to the stabilisation of prices to the producers as required and as far as possible;
- (i) to the cost of scientific research into all matters affecting the cotton industry;
- (j) to the development of the cotton industry in Nigeria and on any development scheme which the Marketing Board may refer to the Cotton Representative Committees for their views.

27. The Marketing Board may, with the approval of the Governor— Servants of the Board.

- (a) from time to time appoint, upon such salaries, terms, and conditions as the Marketing Board may think fit, such officers and employees as may be necessary for the proper and efficient conduct of the operations of the Marketing Board;
- (b) grant pensions, gratuities, or retiring allowances to any officer or employee and may require officers and employees to contribute to any pension or contributory scheme.

28. The Marketing Board shall keep accounts of its transactions to the satisfaction of the Governor in Council and the accounts for each crop year shall be audited by the Audit Department of Government or by a person approved by the Governor. Accounts and audit.

29. The Marketing Board may, with the approval of the Governor in Council, write off bad debts. Bad debts.

PART V

THE NORTHERN AND WESTERN REPRESENTATIVE COMMITTEES

30. There shall be established for the Northern Provinces a committee to be known as the Northern Cotton Representative Committee and for the Western Provinces a committee to be known as the Western Cotton Representative Committee. Establishment of Northern and Western Cotton Representative Committees.

31. The Northern Cotton Representative Committee shall be composed of the following members— Constitution of the Northern Cotton Representative Committee

- (a) a Chairman who shall be an official appointed by the Chief Commissioner, Northern Provinces, by name or office;
- (b) two official members to be appointed by the Chief Commissioner, Northern Provinces;
- (c) two unofficial members, one of whom shall be a representative of the licensed ginning agents and the other a representative of the licensed buying agents, who shall be nominated by the Chief Commissioner, Northern Provinces; and
- (d) six Nigerian Members, of whom one shall be appointed by the Cotton Marketing Board, two shall be appointed by the House of Chiefs, and three shall be appointed by the Unofficial Members of the House of Assembly.

32. The Western Cotton Representative Committee shall be composed of the following members:

- (a) a Chairman who shall be an official appointed by the Chief Commissioner, Western Provinces, by name or office;
- (b) two official members, to be appointed by the Chief Commissioner, Western Provinces;
- (c) one unofficial member who shall be a representative of the licensed ginning agents and who shall be appointed by the Chief Commissioner, Western Provinces; and
- (d) six Nigerian Unofficial Members, of whom one shall be appointed by the Cotton Marketing Board and one by the producers, and four by the Western House of Assembly.

33. The Chief Commissioners of the Northern and the Western Provinces shall each appoint a person, by name or office, to be Secretary of the Northern and Western Cotton Representative Committees respectively.

34. The Chairman and members of the Northern and Western Cotton Representative Committees shall hold office for three years from the dates of their respective appointments, unless otherwise specifically stated in the instrument of appointment, but shall be eligible for re-appointment.

35. When a Chairman or a member of a Representative Committee is temporarily absent from Nigeria or otherwise incapacitated from performing the functions of his office the provisions of section 5 or of section 6, as the case may be, shall apply *mutatis mutandis*, save only that the Chief Commissioner of the Northern or the Western Provinces, as the case may be, may exercise the powers conferred by the relevant section.

36. A Chairman shall have an original vote and, where the vote is equally divided, a casting vote in addition to his original vote.

37. At a meeting of a Representative Committee, the chair shall be taken by the Chairman, and the Chairman and four members shall be a quorum.

38. It shall be the duty of a Representative Committee from time to time as may be required—

- (a) to advise the Marketing Board on all matters connected with the purchase and grading of seed cotton;
- (b) to advise the Marketing Board on any matter which the Marketing Board may refer to it under sub-section (2) of section 20.

(2) A Representative Committee may tender advice to the Marketing Board on any matter relating to the exercise by that body of its functions, powers and duties without any specific reference being made to it by the Marketing Board.

39. A Representative Committee may, with the approval of the Governor, from time to time, make Standing Orders providing for—

Standing Orders.

- (a) the proper conduct of its business;
- (b) the meetings of the Representative Committee;
- (c) the expenses of members attending meetings of the Representative Committee.

PART VI

RESTRICTION ON EXPORT AND ON PURCHASE FOR LOCAL PROCESSING

40. From and after the commencement of this Ordinance, no person shall export seed cotton, cotton lint or cotton seed except—

Restriction on persons who may export.

- (a) a licensed buying agent acting on behalf of the Marketing Board; or
- (b) any other person duly authorised by the Marketing Board to act on its behalf.

41. From and after the commencement of this Ordinance, no seed cotton, cotton lint or cotton seed shall be exported other than—

Restriction on export of seed cotton, etc.

- (a) seed cotton, cotton lint or cotton seed which is the property of the Marketing Board; or
- (b) seed cotton, cotton lint or cotton seed the export of which has been duly authorised in writing by the Marketing Board.

42. (1) The Marketing Board may direct that any cotton lint or cotton seed which is required for mechanized processing in Nigeria shall be purchased from the Marketing Board's licensed buying agents:

Local processing.

Provided that in giving any direction under this sub-section the Marketing Board shall have regard to the interests of Nigerian industries.

(2) No oil or other product resulting from the local processing of cotton seed shall be exported except by the Marketing Board:

Provided that the Marketing Board may issue a general licence for the export of small quantities of cotton seed oil, not exceeding four gallons, as accompanied or unaccompanied personal effects or by parcel post.

PART VII OFFENCES

False representation. **43.** Any person who falsely holds himself out as or represents himself to be a licensed buying or ginning agent, or a person acting on the authority or instructions of the Marketing Board, shall be guilty of an offence.

General offences. **44.** Any person who contravenes or fails to comply with any of the provisions of this Ordinance or who contravenes or fails to comply with the terms or conditions of any licence or authority granted under the provisions of this Ordinance shall be guilty of an offence.

Penalty. **45.** Any person convicted of an offence against this Ordinance shall be liable to a fine of five hundred pounds or to imprisonment for two years or to both such fine and imprisonment.

Special provisions as to directors, etc. **46.** Where an offence against this Ordinance is committed by a body corporate and such offence has been committed on the direction of or with the consent and approval of any director, manager, secretary or other officer of such body corporate, that individual, as well as such body corporate, shall be guilty of that offence and may be proceeded against and, if convicted, be punished accordingly.

PART VIII GENERAL

Control of funds of the Marketing Board on dissolution. **47.** (1) Where the Marketing Board ceases for any reason to exercise its functions under this Ordinance by reason of the repeal of this Ordinance or otherwise, the funds of the Marketing Board shall be allocated for the benefit of the Northern, Western and Eastern Regions in such proportions as the Legislative Council, having due regard to the volume of produce marketed in such Region, may by resolution direct.

(2) Such funds as are thereby allocated for the benefit of the Northern Region shall be disposed of for the benefit of such Region and in such manner as the Northern House of Assembly and the House of Chiefs may by resolution direct.

(3) Such funds as are thereby allocated for the benefit of the Western Region shall be disposed of for the benefit of such Region and in such manner as the Western House of Assembly may by resolution direct.

(4) Such funds as are thereby allocated for the benefit of the Eastern Region shall be disposed of for the benefit of such Region and in such manner as the Eastern House of Assembly may by resolution direct.

48. Any person aggrieved by the refusal of the Marketing Appeals Board to grant or renew a licensed buying or ginning agent's licence or any authority or by any term or condition in any such licence or in any such authority may, within fourteen days of such refusal or of the imposition of the terms or conditions complained of, appeal in writing to the Governor in Council, whose decision shall be final.

49. The Governor in Council may make regulations generally Regulations. for carrying into effect the provisions of this Ordinance and, in particular and without prejudice to the generality of the foregoing,—

- (a) for the licensing of buying or ginning agents;
- (b) requiring books and accounts to be kept by licensed buying or ginning agents and for the inspection thereof;
- (c) for the appointment and duties of inspectors;
- (d) prescribing fees; and
- (e) imposing penalties for offences against regulations made under this Ordinance to a limit of a fine of one hundred pounds or imprisonment for twelve months or both such fine and imprisonment.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

S. ADE. OJO,
Clerk of the Legislative Council.

Colony and Protectorate of Nigeria—1948 Revision

CHAPTER 53 DEVELOPMENT LOAN (Colony)

AN ORDINANCE FOR RAISING THE SUM OF EIGHT MILLION POUNDS
[28th March, 1946]

Ordinance
No. 3 of
1946.

Short title.

1. This Ordinance may be cited as the Development Loan Ordinance.

2. The Governor is hereby authorised to issue stock or debentures or both under the provisions of the General Loan and Inscribed Stock Ordinance to an amount sufficient to produce as nearly as may be the sum of eight million pounds sterling, and such further sums as may be necessary to defray the issue of the said sum of eight million pounds to be appropriated and applied to the purposes specified in the Schedule hereto.

Authority to
issue stock
and debentures to raise
£8,000,000
and to cover
cost of
issue.
Cap. 78.

3. Contributions to the Sinking Fund, as contemplated by sections 13 and 27 of the General Loan and Inscribed Stock Ordinance shall commence in respect of any debentures or stock issued under this Ordinance not later than three years after the date from which the interest on such debentures of stock shall commence to run.

Contributions to
Sinking
Fund.
Cap. 78.

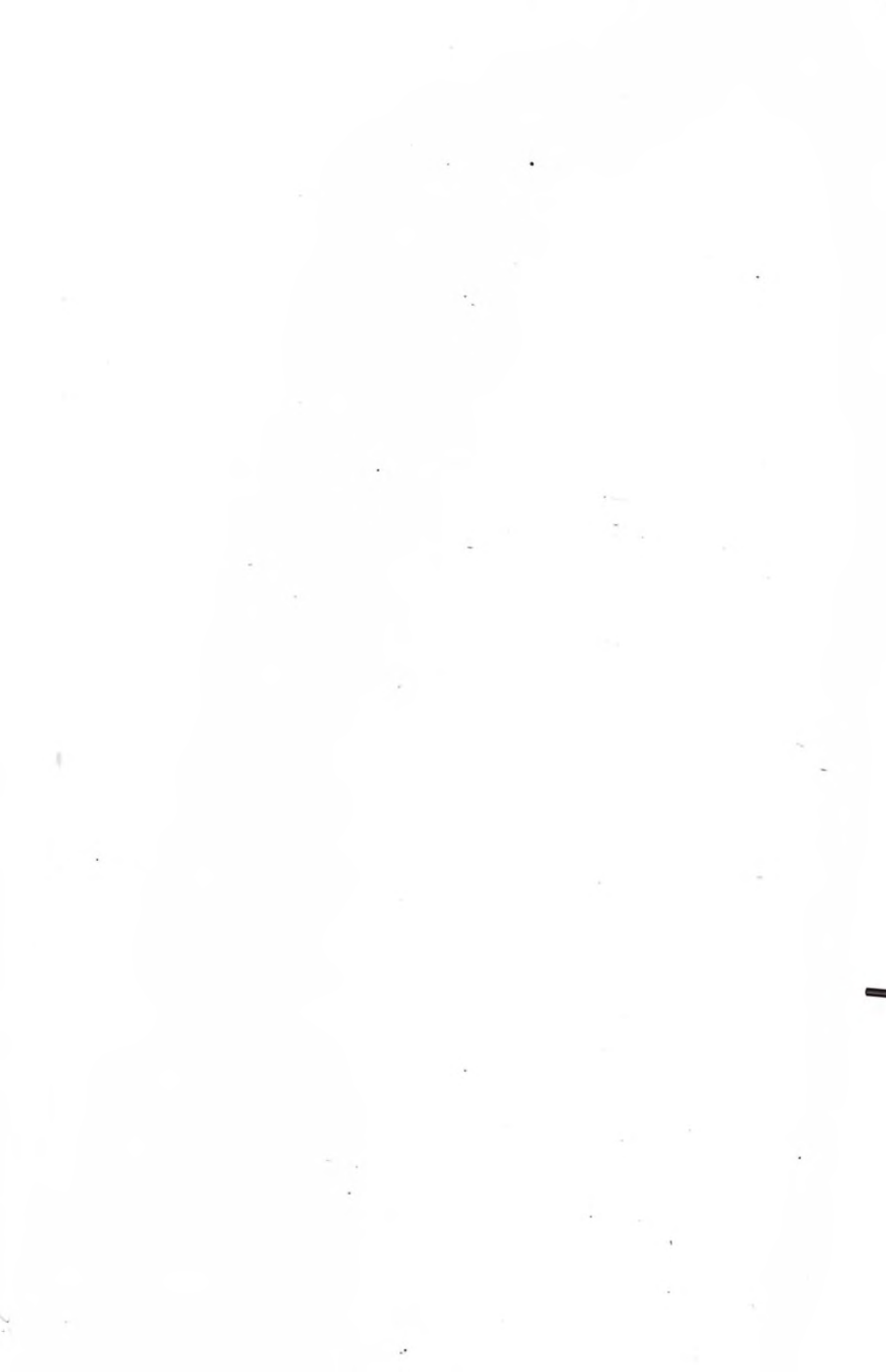
4. (1) The Governor may, by order, with the approval of the Legislative Council signified by resolution, and of the Secretary of State, add any new item within the purposes of this Ordinance to the Schedule hereto.

Utilisation
of savings,
and addition
to items.

(2) The Governor may, with the sanction of the Secretary of State, utilise any savings in respect of any item, other than item 9, in the Schedule hereto to cover any excess of expenditure in respect of any other item and may allocate all or any part of the amount shown under item 9 in the Schedule hereto to any other item therein.

SCHEDULE

	£
1. Urban Water Supplies	955,000
2. Development Building Programme	1,284,000
3. Electrical Development	734,000
4. Telecommunications Development	160,000
5. Marine Development	1,929,000
6. Schools and Educational Institutions	1,140,000
7. Grants to Nigeria Local Development Board ..	1,250,000
8. Road Development	100,000
9. Unallocated	448,000
	£8,000,000



Colony and Protectorate of Nigeria—1948 Revision

CHAPTER 57

EDUCATION

(*Colony and Protectorate*)

AN ORDINANCE TO MAKE BETTER PROVISION IN REGARD TO
EDUCATION.

Ordinances
No. 15 of
1926⁽¹⁾
14 of 1928
25 of 1929
7 of 1931
11 of 1931⁽¹⁾
42 of 1933
65 of 1933
9 of 1934
35 of 1945.

[Part I—27th May, 1926]

[Part II—1st August, 1931]

1. This Ordinance may be cited as the Education Ordinance. Short title.

PART I

THE COLONY AND SOUTHERN PROVINCES (*Ordinance No. 15 of 1926*)

2. This Part shall apply to the Colony and the Southern Provinces including the Cameroons Province of the Cameroons under British Mandate. Application.

3. In this Part— Definitions.

["the Assistant Director of Education" means the person appointed by the Governor to be Assistant Director of Education for the Colony and Southern Provinces of Nigeria. (*Added by No. 7 of 1931.*)]⁽²⁾

"assisted school" means a school other than a Government school to which, under the provisions of this Part, a grant is made from the public revenue.

"the Board" means the Board of Education constituted under this Part.

"the Deputy Director of Education" means the Deputy Director of Education for Nigeria. (*Added by No. 7 of 1931.*)⁽²⁾

"the Director" means the Director of Education for Nigeria. (*Added by No. 7 of 1931.*)

⁽¹⁾ Ordinances Nos. 15 of 1926 and 11 of 1931 are repealed by No. 9 of 1942 but the latter has not been brought into operation and was on the 1st of January, 1948, in process of revision: in the new Bill published in Gazette 29 of 1948 there is a clause repealing No. 9 of 1942 as well as the two Ordinances of 1926 and 1931.

⁽²⁾ This appointment no longer exists: there are now deputy directors (headquarters and regional).

- “Government school” means a school established by the Governor and maintained wholly or in part by the public revenue.
- “manager” in the case of a school which is conducted by the proprietor in person means the proprietor, and in the case of every other school means the person for the time being appointed by the proprietor to be the responsible local representative of the proprietor.
- “proprietor” in relation to a school means any person, society or corporation or a native authority by whom or which a non-Government school is established or conducted.
- “school” means an institution in which not less than ten pupils receive regular instruction and includes any assembly of not less than ten pupils for the purpose of receiving regular instruction and any institution for the training of teachers. (*Amended by No. 14 of 1928.*)
- “staff” in relation to a school means all persons engaged in teaching in the school.
- “superintendent” means an officer appointed by the Government to assist in the control of education.⁽¹⁾
- “supervisor” means a person appointed by a proprietor and approved by the Governor⁽²⁾ to assist in the supervision of schools established and conducted by such proprietor. [2] (*Amended by No. 25 of 1929.*)

Establishment of Government schools.

4. The Governor⁽³⁾ may from time to time establish Government schools in the Colony and Southern Provinces. Any school established by the Government in the Colony or Southern Provinces prior to the commencement of this Ordinance shall be deemed to be a Government school established under this Ordinance. [3]

Constitution of Board of Education for the Colony and Southern Provinces.

5. (1) There shall be a Board of Education for the Colony and Southern Provinces, which shall be constituted as follows :—
 the Director of Education ;
 the Deputy Director of Education ;
 [the Assistant Director of Education ;]
 not less than ten representatives of mission and other educational agencies working in the Colony or the Southern Provinces appointed by the Governor ;

(1) Now “education officer”: see Govt. Notice 1496 of 1938.

(2) Power delegated to Director of Education.

(3) Power delegated to the Chief Commissioner, Eastern Provinces, and Chief Commissioner, Western Provinces.

Education

such officers of the Government or other persons as the Governor may appoint.

(2) At least one member of the Board shall be a woman.

(3) The Director shall be president of the Board. In his absence from any meeting of the Board the Deputy Director of Education [or, in his absence, the Assistant Director of Education,] shall be chairman of such meeting.

(4) If any member is unable to attend a meeting of the Board, any other person may, if the Director or the chairman of the meeting approves, represent him on the Board for such meeting and shall be entitled to vote.

(5) The chairman and six other members shall form a quorum.

(6) The Board may appoint committees of its members for the purpose of carrying out duties assigned to committees of the Board by this Ordinance or by any regulations which may be made under section 20.

(7) The Board may direct how many members of a committee shall form a quorum, provided that the quorum shall not be less than three members.

(8) The Board may appoint the chairman of a committee or may leave the committee to appoint a chairman.

(9) Any question before a meeting of the Board or of a committee shall be decided by a majority of votes, and the chairman of such meeting shall, in addition to his own vote as a member of the Board or of the committee, have a casting vote in cases where the votes of the members are equally divided.

(Sub-sections (1) to (9) substituted by No. 7 of 1931.)

(10) (a) The Director may, with the approval of the Governor, delegate to the Deputy Director of Education [or to an Assistant Director of Education] all or any of the powers and duties placed upon him under the provisions of this Ordinance.

(b) Any such delegation may be given either generally or in respect of any particular power or duty or in respect of any particular matter and shall be in writing signed by the Director and, when given generally, shall be published in the Gazette. *(Added by No. 35 of 1945.)* [4]

6. (1) Members of the Board appointed by the Governor may be appointed for any period not exceeding three years, and shall be eligible for reappointment thereafter; Tenure of office.

Provided that the Governor may at any time revoke any appointment under sub-section (1) of section 5 :

Provided further that any member appointed as aforesaid may at any time by notification to the Governor in writing resign his seat on the Board.

(2) The Director may invite, for the purposes of any particular meeting or meetings of the Board, any person to attend for such meeting or meetings. (*Substituted by No. 7 of 1931.*) [5]

Duties of
the Board.

7. It shall be the duty of the Board—

- (a) to consider reports of the proceedings of school committees and advise the Governor thereon ;
- (b) to recommend to the Governor any changes in the regulations ;
- (c) to make any reports to the Governor which it may consider necessary on matters of importance affecting education ; and
- (d) generally to perform such duties as may be prescribed or as the Governor may direct. [5A]

(*Added by No. 7 of 1931.*)

Registration
of teachers.

8. (1) A register or registers of teachers in the Colony and Southern Provinces shall be kept by an officer or officers appointed for the purpose by the Director of Education.

(2) No person shall teach in any school in the Colony or the Southern Provinces unless he has been enrolled on a register of teachers, or after his name has been deleted from such register or during any period of suspension.

(3) A person may be registered as a vernacular teacher and any person so registered shall only teach in schools or departments of schools in which the medium of instruction is the vernacular. (*Added by No. 7 of 1931.*)

(4) Any person who contravenes any provision of this section, and any proprietor or manager who permits any such contravention, shall be guilty of an offence and shall be liable to a fine of five pounds and to an additional fine of one pound in respect of each and every day during which such offence continued. (*Added by No. 7 of 1931.*)

(5) The provisions of this section shall not apply to the teaching of religion by persons other than registered teachers, or to the teaching of any particular subject by a person who is not a registered teacher in cases where the approval of the Director has been obtained. (*Added by No. 7 of 1931.*) [6]

Education

9. (1) The Governor⁽¹⁾ may establish school committees in the Colony and in any province or group of provinces in the Southern Provinces, and may appoint chairmen of such committees. School committees.

(2) Four members of a committee shall form a quorum.

(3) Not less than two members of a school committee shall be selected from persons who are connected with schools in the area for which the committee is appointed.

(4) In areas where supervisors have been approved by the Governor, they shall be *ex officio* members of the school committees established in those areas.

(5) School committees shall meet at least twice a year upon dates to be fixed by the chairman and notified to the members by the secretary. Except in cases of urgency the agenda shall be circulated to members at least three weeks previous to the meetings. Any member unable to attend may send his views in writing with regard to any matter mentioned in the agenda to the secretary for the consideration of the committee at the meeting. (*Added by No. 7 of 1931.*)

(6) At all meetings of a school committee the chairman shall, in addition to his vote as a member of the committee, have a casting vote in cases where the votes of the members are equally divided. (*Added by No. 7 of 1931.*)

(7) The minutes of each meeting, together with any written views sent by absent members, shall be forwarded by the secretary of the committee to the secretary to the Board as soon as possible after the meeting. (*Added by No. 7 of 1931.*) [7]

10. The duties of a school committee shall be—

- (a) to advise the Director and the Board as to the best methods of promoting and raising the standard of education in the area for which it is appointed ;
- (b) to suggest to the Director and to the Board any variation in the curriculum or in the conduct of the schools which may, in its opinion, be suitable to conditions in such area ; and
- (c) to advise on the best methods of school housing, and on sanitation and on the general welfare of the pupils in the schools, including the provision of adequate playgrounds, and such other duties as may be prescribed. (*Added by No. 7 of 1931.*) [7A]

Duties of
school
committees.

(1) Power delegated to Chief Commissioner, Eastern Provinces, and Chief Commissioner, Western Provinces.

11. The proprietor of every school (other than a Government school) which is not conducted by the proprietor in person shall, in the case of a school established before the commencement of this Part, immediately after the commencement of this Part, and in the case of a school established after the commencement of this Part not less than three months before the school is opened for the reception of pupils, appoint, and notify the Director of Education of the appointment of, some person connected with the school and resident in Nigeria to be the responsible local representative of the proprietor to whom any communication from the Government relating to the school may be addressed, and shall at all times thereafter have a representative in Nigeria and notify the Director of Education of any change either in the person or the address of his representative. For a failure to comply with any of the requirements of this section the proprietor shall be liable to a fine of ten pounds. (*Amended by No. 7 of 1931.*) [8]

12. (1) No new school shall be established unless a notification in writing giving the following particulars is sent by the proprietor to the Director not less than three months before the school is opened:—

- (a) the name and address of the proprietor of the school;
- (b) the name and address of the manager;
- (c) the situation of the school and plan of the buildings;
(*Substituted by No. 9 of 1934.*)
- (d) the type of school proposed;
- (e) the numbers, qualifications and nationality of the staff.

(2) The manager of every school shall send annually to the Director a return showing the following particulars:—

- (a) the number of pupils on the roll and the average attendance of pupils;
- (b) the numbers, qualifications and nationality of the staff.

Returns in respect of assisted schools must be so sent before the 15th January in each year and returns for all other schools in the month of July of each year. Such returns shall relate to the year ending on the previous 31st December.

(3) A proprietor who shall open a school without having conformed to the provisions of sub-section (1) or a manager who shall neglect to furnish a return under sub-section (2) shall

Education

be liable to a fine of ten pounds, and any proprietor or manager who shall furnish a return in which any of the particulars are false to his knowledge shall be liable to a fine of one hundred pounds. [9]

13. (1) It shall be lawful for the Governor on the recommendation of the Director and a committee of the Board appointed by the Board for the purpose of this section to prohibit the opening of a new school where the Director and the committee are not satisfied that the person who it is proposed should be the manager or other person in charge of the school is a suitable person to be in charge of a school and to prohibit the opening of a new school until such time as the Director and the committee are satisfied that the school will be efficiently conducted and adequately staffed and any person responsible for opening or conducting any new school in disregard of any such prohibition shall be liable to a fine of ten pounds and to a further fine of two pounds for each and every day during which the school is so opened. [9A]
(Added by No. 7 of 1931 and amended by No. 42 of 1933.)

Power of Governor to prohibit opening of a new school.

14. (1) The manager or person for the time being in charge of a school shall permit the Director or his authorised representative to enter and inspect the school at any time, shall produce for his inspection any books or registers kept in connexion with the school, and shall furnish any information which the Director or his representative may demand with regard to the care and tuition of the pupils, the names and qualifications of the staff and generally with regard to the management of the school.

Inspection of schools.

(2) The manager or person for the time being in charge of a school shall permit the Resident or any other administrative officer of the province or other area in which the school is situated, or any member of the Board, to visit the school at any time.

(3) The manager or person in charge of a school who shall contravene or fail to comply with any of the provisions of this section shall be liable to a fine of ten pounds. [10]
(Substituted by No. 7 of 1931.)

15. (1) It shall be lawful for the Governor on the recommendation of the Director and a committee of the Board appointed for the purposes of this section to order any school to be closed—

Closing of schools.

(a) when an offence has been committed under section 12 or section 14 in respect of that school; or

- (b) where on inspection it has been shown to the satisfaction of the Director that the school is being conducted in a manner which is not in the interests of the pupils or not in the interests of the community, and the Director has pointed out in writing to the proprietor of the school the faults in the conduct of the school and the manner in which those faults should be remedied, and after a period of not less than three months on further inspection it has been shown to the satisfaction of the Director that the school is still being conducted in a manner which is not in the interests of the pupils or not in the interests of the community; or
- (c) where in the opinion of the Director and the committee the manager or other person in charge of the school is not a suitable person to be in charge of a school. (*Added by No. 42 of 1933.*)

(2) No recommendation shall be made to the Governor under this section unless and until the proprietor shall have had an opportunity of representing his case before the Director and the committee. [11]

(*Substituted by No. 7 of 1931.*)

Penalty for
not closing
school when
ordered.

16. The proprietor or manager of a school which has been ordered to be closed under section 15, who—

- (a) shall fail to close the school within the time specified in the order; or
- (b) shall, without the sanction of the Governor first obtained, reopen or conduct the school ordered to be closed, or open or conduct any other school;

shall be liable to a fine of one hundred pounds. [13]

(*Amended by No. 7 of 1931.*)

Government
grant to
school.

17. Subject to the provisions of this Ordinance and to any regulations made thereunder, the Governor may make to any non-Government school or to a missionary or educational society or corporation for educational purposes in the Colony or Southern Provinces a grant from public revenue of such amount and subject to such conditions as may be prescribed by regulations. [14]

Grants, how
made.

18. No grant shall be made except on the recommendation of the Director of Education, but the amount of such grant shall be determined by the Governor. [15]

Education

19. The proprietor and manager of a school shall be jointly and severally liable to refund the whole grant made to a school if it should be found that the grant made was greater in amount than it should have been owing to any misrepresentation or false return wilfully and knowingly made by the proprietor or manager. Refund of grant in certain cases.
[16]

20. The Governor in Council, on the recommendation of the Board, may make regulations for all or any of the purposes following:— Power to make regulations.

- (a) the functions and duties of the Board, of committees of the Board, of school committees, and of supervisors; (*Amended by No. 7 of 1931.*)
 - (b) the making of grants to schools and missionary and educational societies or corporations working in the Colony or the Southern Provinces;
 - (c) the buildings in which schools may be conducted;
 - (d) the instruction to be given in schools;
 - (e) the examination of teachers and the classification of the certificates given to teachers;
 - (f) the registration of teachers and the removal, temporarily or permanently, of names from the register of teachers;
 - (g) the inspection and examination of schools by fit and proper persons;
 - (h) the records, including account books, to be kept at schools and the manner in which returns are to be furnished by managers;
 - (i) the relation between schools and Government departments in regard to apprentices;
 - (j) the exemption of certain schools or classes from such of the provisions of the Ordinance and the regulations made thereunder as may be specified; (*Amended by No. 14 of 1928.*)
 - (k) generally for carrying into effect the purposes and provisions of this Ordinance. (*Amended by No. 14 of 1928.*)
- [17]**

21. The Education Ordinance shall cease to have effect in the Colony and the Southern Provinces. **[18]**

Chapter 65 of the 1923 edition to cease to have effect in the Colony and Southern Provinces.

Education

PART II

NORTHERN PROVINCES

(Ordinance No. 11 of 1931)

Application. 22. This Part shall apply to the Northern Provinces including those parts of the Cameroons under British Mandate which are administered with the Northern Provinces. [1]

Definitions. 23. In this Part—

“assisted school” means a school other than a Government school, to which, under the provisions of this Part, a grant is made from the public revenue.

“the Board” means the Board of Education constituted under this Part.

“Chief Commissioner” means the Chief Commissioner of the Northern Provinces.

“class for religious instruction” means a class or assembly of not less than six persons receiving instruction in religious subjects and in one or more of such elementary subjects as are specified in a syllabus drawn up for the purposes of this definition by the Director with the advice of the Board, but in no other subjects. (*Inserted by No. 65 of 1933.*)

“Deputy Director” means the person appointed by the Governor to be Deputy Director of Education for the Northern Provinces.⁽¹⁾

“Director” means the Director of Education for Nigeria.

“Government school” means a school established by the Governor and maintained wholly or in part by the public revenue.

“manager” in the case of a school or class for religious instruction which is conducted by the proprietor in person means the proprietor, and in the case of every other school or class for religious instruction means the person for the time being appointed by the proprietor to be the responsible local representative of the proprietor. (*Amended by No. 65 of 1933.*)

“proprietor” in relation to a school or class for religious instruction means any person, society or corporation by whom or which a non-Government school or a class for religious instruction is established or conducted. (*Substituted by No. 65 of 1933.*)

⁽¹⁾ “Deputy Director” is substituted for “Assistant Director”. There are now deputy directors (headquarters and regional).

Education

“provincial superintendent of education”⁽²⁾ means an officer of the Education Department appointed by the Director to supervise schools in a province or in any larger or smaller area as may be determined by the Director with the approval of the Chief Commissioner.

“school” means an institution in which not less than six pupils receive regular instruction and includes any assembly of not less than six persons for the purpose of receiving regular instruction, but does not include—

- (a) any such institution or assembly where the instruction received is in religious subjects only, or
- (b) a class for religious instruction as defined above. (*Amended by No. 65 of 1933.*)

“staff” in relation to a school or class for religious instruction means all persons engaged in teaching in the school or class for religious instruction. (*Amended by No. 65 of 1933.*) [2]

24. (1) There shall be a Board of Education for the Northern Provinces, which shall be constituted of not less than eight members as follows :—

the Director ;

the Deputy Director ;

such officers of the Government or other persons, not being less than three in number, as the Chief Commissioner may appoint ;

such representatives of mission or other educational agencies working in the Northern Provinces, not being less than three in number, as the Chief Commissioner may appoint.

(2) At least one member of the Board shall be a woman.

(3) There shall be a secretary to the Board who shall be appointed by the Director.

(4) Members of the Board appointed by the Chief Commissioner may be appointed for any period not exceeding three years, and shall be eligible for reappointment thereafter :

Provided that the Chief Commissioner may at any time revoke any appointment under sub-section (1) :

Provided further that any member appointed under the said sub-section may at any time by notification to the Chief Commissioner in writing resign his seat on the Board.

Constitution of Board of Education for the Northern Provinces.

⁽²⁾ Now “education officer”: see Govt. Notice 1496 of 1938.

Education

(5) The Director shall be president of the Board and shall be chairman of any meeting at which he is present. In his absence the Deputy Director shall be chairman, and in the absence of both the Director and the Deputy Director, the senior official member shall be chairman.

(6) If any member is unable to attend a meeting of the Board, any other person may, with the approval of the chairman, represent him on the Board for such meeting and shall be entitled to vote.

(7) The chairman and three other members shall form a quorum.

(8) Any question before a meeting of the Board shall be decided by a majority of votes, and the chairman of a meeting, shall in addition to his vote as a member of the Board, have a casting vote in cases where the votes of the members are equally divided. [3]

Attendance of non-members at meetings of the Board.

25. The president may invite, for the purposes of any particular meeting or meetings of the Board, any person or persons to attend such meeting or meetings. [4]

Times and places of meeting of Board.

26. The Board shall meet at such times and places as the president may appoint. [5]

Duties of Board.

27. The Board shall consider such questions as may be referred to it by the Chief Commissioner or brought forward by the president or any member, and shall make any reports to the Chief Commissioner which it may consider necessary on matters of importance affecting education. [6]

Constitution of school committees.

28. (1) The Chief Commissioner may establish school committees in any province or group of provinces.

(2) The Resident in charge of the province or the senior Resident in the group of provinces shall be chairman of the school committee appointed for the province or group of provinces, as the case may be, and the committee shall consist of the chairman and such persons as may be appointed to be members thereof by the Chief Commissioner.

(3) When the chairman is unable to attend a meeting of the school committee he may appoint some other member of the committee to act as chairman at such meeting.

Education

(4) Three members of the school committee shall form a quorum.

(5) Any question before a meeting of a school committee shall be decided by a majority of votes, and the chairman shall, in addition to his vote as member, have a casting vote in cases where the votes of the members are equally divided. [7]

29. A school committee shall perform such duties in relation to Government schools, assisted schools and non-assisted schools in the area for which the committee is appointed as the Chief Commissioner may direct, and shall meet at such times and places as may be appointed by the chairman, who shall forward a report of the proceedings of each meeting to the Deputy Director. [8]

Duties of school committees.

30. (1) No new school or class for religious instruction shall be established after the 1st day of January, 1934, without the prior approval of the Resident of the province in which it is desired to establish such school or class. Any application for such approval shall be made through the provincial superintendent of education :

Sanction for opening new schools or classes.

Provided that a class for religious instruction personally conducted by a person who is a native of or is domiciled in the town or village where such class is established shall not require such prior approval.

(2) Where any school or class for religious instruction is established in contravention of this section the proprietor shall be liable to a fine of ten pounds. [9]

(Substituted by No. 65 of 1933.)

31. (1) The proprietor of every school (other than a Government school) which is not conducted by the proprietor in person shall, in the case of a school established before the commencement of this Part, immediately after the commencement of this Part, and in the case of a school established after the commencement of this Part, before the school is opened for the reception of pupils, appoint, and notify the Deputy Director of the appointment of, some person resident in Nigeria to be the responsible local representative of the proprietor to whom any communication from the Government relating to the school may be addressed, and shall at all times thereafter have such a representative in Nigeria and shall notify the Deputy Director of any change either in the person or the address of his representative.

Appointment of managers of non-Government schools.

Education

(2) For a failure to comply with any of the requirements of this section the proprietor shall be liable to a fine of ten pounds. [10]
(Amended by No. 65 of 1933.)

Records and returns.

32. (1) The managers of schools or classes for religious instruction shall keep such records and furnish such returns to the Deputy Director as may be specified by the Director and the Board in a notice approved by the Chief Commissioner and published in the Gazette. Such notice shall also state the times at which such returns are to be furnished.

(2) A notice under this section may apply to all schools or classes for religious instruction or to any particular kind of schools or classes for religious instruction in the whole of the Northern Provinces or in any particular part thereof.

(3) A notice under this section or any amendment thereof shall not come into force until two months after the publication thereof in the Gazette.

(4) Any manager of a school or class for religious instruction who fails to comply with the provisions of this section shall be liable to a fine of ten pounds, and any manager of a school or class for religious instruction who furnishes a return in which any of the particulars are false to his knowledge shall be liable to a fine of one hundred pounds. [11]

(Amended by No. 65 of 1933.)

Inspection of schools and classes.

33. (1) The manager or person for the time being in charge of a school or class for religious instruction shall permit the Director or provincial superintendent of education, or any person authorised by the Director to carry out the duties of school inspection, to enter and inspect the school or class for religious instruction at any time, and shall furnish any information which the Director, provincial superintendent or such authorised person may demand with regard to the care and tuition of the pupils, the names and qualifications of the staff and generally with regard to the management of the school or class for religious instruction.

(2) The manager or person for the time being in charge of a school or class for religious instruction shall permit the Resident or other administrative officer authorised by him to visit the school or class for religious instruction at any time and shall furnish any information which the Resident or authorised administrative officer may demand with regard to the school or class for religious instruction.

Education

(3) Any manager or person for the time being in charge of any school or class for religious instruction who shall contravene or fail to comply with any of the provisions of this section, or who shall give any information demanded of him under this section which he knows to be false, shall be liable to a fine of ten pounds. [12]

(Amended by No. 65 of 1933.)

34. When it is shown to the satisfaction of the Governor, after an inquiry held under the Commissions of Inquiry Ordinance—

Power of Governor to order a school or class to be closed. Cap. 37.

- (a) that teaching of a seditious, disloyal, immoral or otherwise harmful character is being or has recently been imparted in any school or class for religious instruction, or
- (b) that education is being imparted in any school or class for religious instruction by a person of known bad character ; or
- (c) that the staff or a substantial part thereof at any school is incompetent to teach the subjects which are claimed by the proprietor or manager as being taught at the school ; or
- (d) that the school is being conducted in a place, the sanitary condition of which is detrimental to the health of the pupils,

the Governor may, by notice under his hand to be served on the proprietor or manager of the school or class for religious instruction, order the school or class for religious instruction to be closed as from such date as shall be specified in the notice. [13]

(Amended by No. 65 of 1933.)

35. The proprietor or manager of a school or class for religious instruction which has been ordered to be closed as aforesaid who—

Penalty for not closing a school or class when ordered.

- (a) shall fail to close the school or class for religious instruction within the time specified in the notice, or
- (b) shall, without the sanction of the Governor first obtained, reopen or conduct the school or class for religious instruction ordered to be closed, or open or conduct any other school or class for religious instruction,

shall be liable on conviction to a fine of one hundred pounds, and if the offence shall continue after such conviction he shall be liable on a second or any subsequent conviction to a fine not

Education

exceeding one hundred pounds or to imprisonment for one year or to both such fine and imprisonment. [14]

(Amended by No. 65 of 1933.)

Registration of teachers in assisted schools.

36. No person shall be employed as a teacher in an assisted school, unless he has been registered as a teacher of that school at the office of the Deputy Director. Before registering such teacher the Deputy Director shall satisfy himself that he is a fit and proper person to be a teacher in such school. [15]

Teachers of English in unassisted schools.

37. No teacher shall be employed as a teacher of English or to teach through the medium of English in an unassisted school except with the prior approval of the Deputy Director. [16]

Penalty.

38. Any person who shall employ a teacher in contravention of section 36 or of section 37 shall be liable to a fine of ten pounds. [17]

Grading of assisted schools.

39. (1) Schools in respect of which their managers apply for grants from the public revenue, shall be graded by the Director in accordance with grades which shall be laid down by the Director with the advice of the Board.

(2) Syllabuses to be followed by schools of each grade shall be drawn up by the Director with the advice of the Board :

Provided that such syllabuses shall not refer to the religious instruction to be given. [18]

Government grants to schools.

40. Grants may be made from the public revenue to non-Government schools in accordance with such scales as may be drawn up by the Director with the advice of the Board and approved by the Governor.⁽¹⁾ Before any such grant is made to any school the Director shall receive an assurance from the manager that the teaching will conform to the course of studies prescribed for schools of the grade in which the school is placed by the Director. [19]

Withdrawal of grants.

41. If the Director is satisfied that a school to which a grant is made is not being conducted in a proper manner or that the teaching in the school does not conform to the course of studies prescribed for schools of the grade in which the school is placed by the Director, he may give notice to that effect to the proprietor or manager, and if after the expiration of twelve months from the giving of such notice the Director is still satisfied that the school

⁽¹⁾ Power delegated to Chief Commissioner, Northern Provinces.

Education

is not being conducted in a proper manner or that the teaching in the school does not conform to the said course of studies, the grant to the school may be wholly or partly withdrawn. [20]

Cases in which grants not to be made.

42. No grant shall be made to any school

- (a) which is self supporting or yields a profit to its proprietor ; or
- (b) which the Chief Commissioner considers superfluous by reason of its proximity to a pre-existing school ; or
- (c) in respect of which the manager has made a false return affecting the amount of the grant. [21]

Liability to refund grants.

43. The proprietor and manager of a school shall be jointly and severally liable to refund the whole grant made to a school if it shall be found that the grant made was greater in amount than it should have been owing to any misrepresentation or false return wilfully and knowingly made by the proprietor or manager, and also to refund any portion of a grant which was made in error and which should not have been made. [22]

Power to make regulations.

44. The Governor may make regulations for the better carrying into effect of the provisions of this Part.

45. (1) The Mission Schools (Northern Provinces) Ordinance, the Education (Northern Provinces) Ordinance, 1926, and all regulations made thereunder are hereby repealed.

Repeal of Chapter 66 of the 1923 edition, of Ordinance No. 14 of 1926, and of regulations under Chapter 65 of the 1923 edition.

(2) All regulations made under the Education Ordinance shall cease to have effect in the Northern Provinces.

REGULATIONS

MADE UNDER

THE EDUCATION ORDINANCE, 1948

(No. 39 of 1948)

In exercise of the powers conferred upon the Governor in Council by section 30 of the Education Ordinance, 1948, the following regulations are hereby made:—

1. These regulations may be cited as the Education Regulations, Short title. 1949.

2. In these regulations:—

Definitions.

“ an attendance ” means the continuous attendance of a pupil during the whole of an attendance period;

“ approved ” with reference to an African language, means approved by the Director or his representative for use in schools or adult literacy classes as the case may be;

“ attendance period ” means each period of a day during which the pupils are in continuous attendance at a school for the purpose of instruction;

“ average attendance ” for any interval of time means the average number of attendances of pupils per attendance period during that interval of time and is found by dividing the total number of attendances made during that interval of time by the total number of attendance periods held during that interval of time;

“ certificated teacher ” means a teacher holding a valid teacher's certificate recognised or issued by the Director;

“ department ” when this term is used in connection with a school means a part of a school in which the instruction is confined to one of the following schedules or groups of schedules:—

A, B, C, B with C, D, E, F;

“ Elementary Course ” means a course of instruction given in Elementary Schools in the Northern Provinces and is a four year course based on Schedules B, C and D;

“ Elementary School ” means a school in the Northern Provinces mainly for children who have attained the age of five years but have not attained the age of fourteen years in which provision is made for a four year course of instruction in accordance with a syllabus approved by the Director, provided that with the approval of the Regional Deputy Director classes may be enrolled for adult pupils for whom a four year course is regarded as desirable;

“ Full Primary School ” means a school mainly for children who have attained the age of five years but who have not attained the age of sixteen years, in which instruction is based on Schedules B, C and D.

Schedules
B, C, D.

- Schedule B. " Infant School " means a school mainly for children who have not attained the age of eight years, in which instruction is based on Schedule B;
- Schedules B and C. " junior primary course " means a graded course of instruction given in an Elementary School or in a Junior Primary School based on Schedules B and C;
- Schedules B and C. " Junior Primary School " means a school mainly for children who have attained the age of five years but have not attained the age of fourteen years in which provision is made for instruction in accordance with a syllabus based on Schedules B and C;
- Schedule G. " literacy class " means a literacy class as defined in section 2 of the Education Ordinance, 1948, in which instruction is based on Schedule G;
- Schedule F. " Middle School " means a school in the Northern Provinces in which provision is made for a course of instruction in accordance with a syllabus approved by the Director and to which pupils have been admitted after a satisfactory completion of the course approved for Elementary Schools;
- Schedule A. " Modern School " means a school in which post-primary instruction is given based upon Schedule F;
- Schedule A. " Nursery School " means a school providing education mainly for children who have attained the age of two years but have not attained the age of five years and in which instruction is based upon Schedule A;
- " Provincial Education Officer " means an Education Officer appointed by the Governor to assist in the promotion and development of education in a specific Province or group of Provinces;
- " recognised primary school leaving certificate " means a certificate on a form supplied by the Education Department to be given under such conditions as may be prescribed by the Director to pupils who leave at the end of a complete course of instruction in a Senior Primary School;
- Schedule D. " Senior Primary School " means a school mainly for children who have attained the age of nine years but have not attained the age of sixteen years to which children have been admitted after the satisfactory completion of a full junior primary course and in which instruction is based on Schedule D;
- Schedule E. " Secondary School " means a school to which pupils have been admitted after passing Standard IV in a Primary School and providing full time education for pupils above eleven years of age and in which instruction is based on Schedule E;
- " Standard " means a class other than an Infant class in a Junior or Senior Primary School;

“ Technical School ” means a school in which all pupils devote not less than half of the regular hours of attendance to instruction in the theory and practice of applied science, on a plan approved by the Director;

“ Vocational School ” means a school in which all the pupils devote not less than half of the regular hours of attendance to instruction in some trade vocation or handwork on a plan approved by the Director.

3. (1) A Supervisor or supervising teacher shall assist in the supervision of schools and shall work in an area to be approved by the Director. Supervisors and Visiting Teachers.

(2) A Visiting Teacher shall advise the staffs of primary schools and may assist in the supervision of schools in his area.

4. (1) Every approved Supervisor shall render an annual report in December of each year to the appropriate Regional Deputy Director or Colony Education Officer on the educational work of the year. Annual Report from Supervisors.

5. The Director may in cases of urgent necessity grant permission to a proprietor to allow a supervisor to cease to perform the duties of a supervisor and to perform other duties. Supervisor may perform other duties with permission of the Director

6. (1) A Regional Deputy Director or Colony Education Officer may refuse permission to any person to be or continue to be the proprietor or manager of a school if he is not satisfied that such person is a fit and proper person to be a proprietor or manager. Refusal to accept proprietor or manager of a school.

(2) Where a Regional Deputy Director or Colony Education Officer has refused permission to any person to be a proprietor or manager he shall communicate to him in writing the reasons for such refusal, and such person shall have the right to appeal in writing to the Regional Board of Education or Committee. Such appeal shall be considered at the next meeting of the Regional Board of Education at which the person concerned shall have the right to appear and state his case in person.

Should the decision of the Regional Deputy Director or Colony Education Officer be upheld by the Regional Board, the person concerned shall have the further right to appeal in writing to the Central Board. Such appeal shall be considered at the next meeting of the Central Board and such person shall have the right to appear before the Central Board and state his case in person. The decision of the Central Board shall be final.

(3) No person who has been struck off the register of teachers shall be eligible to act as a proprietor or manager of a school, except with the written permission of a Regional Deputy Director or Colony Education Officer.

(4) No person who is engaged in teaching at one school shall be eligible to be the proprietor or manager of another school without the written permission of the Regional Deputy Director or Colony Education Officer for the area in which the school is situated.

Duty of manager as to books and records.

7. (1) The manager of a school or his approved representative shall visit the school at least once in every half year, shall see that the books and records prescribed by these regulations are properly kept and shall record the result of his visit in the log book.

Penalty.

(2) Failure to comply with this regulation shall be an offence and upon summary conviction shall render the manager liable to a fine of five pounds.

Manager not to employ teacher outside attendance periods; teacher not to teach outside the school at which employed.

8. (1) No manager except with the permission of the appropriate Regional Deputy Director or Colony Education Officer shall employ a teacher who is employed at the full rate of salary prescribed by the Ordinance to teach outside the recognised attendance periods in any school other than that at which he is employed.

(2) No teacher in full-time teaching employment shall teach at any other school without the approval of the appropriate Regional Deputy Director or Colony Education Officer.

Classes of teachers.

9. The following are the recognised categories of teachers:—

1. graduate teachers;
2. certificated teachers;
3. vocational teachers;
4. uncertificated teachers;
5. vernacular teachers;
6. probationary teachers.

Register of teachers.

10. A register of teachers shall be kept under sub-section (1) of section 19 of the Ordinance as the Director may prescribe.

Conditions for enrolment of graduate teachers.

11. A teacher to be eligible to have his name enrolled as a graduate teacher must have a degree or equivalent qualification granted by a University or Institution recognised by the Director.

Conditions for enrolment of certificated teachers.

12. A teacher to be eligible to have his name enrolled as a certificated teacher must have one of the following qualifications:—

- (a) a diploma of education considered satisfactory by the Director;
- (b) any teacher's certificate, other than a vocational teacher's certificate, issued by the Director either under these regulations or under any regulations heretofore in force;
- (c) a certificate issued by any other Education Authority and considered by the Director to be equivalent to a teacher's certificate of Nigeria;
- (d) such other qualifications as are considered adequate by the Director.

Conditions for enrolment of vocational teacher.

13. A teacher to be eligible to have his name enrolled as a vocational teacher must possess such technical qualifications as are considered adequate by the Director.

Conditions for enrolment of uncertificated teacher.

14. Except with the permission of the appropriate Regional Deputy Director or Colony Education Officer no person, other than the holder of a Secondary VI pass or a Cambridge School Certificate or a certificate recognised as equivalent by the Director, may be enrolled as an uncertificated teacher unless he

- (a) is over sixteen years of age; and
- (b) is recommended by a school manager; and
- (c) is in possession of a recognised primary School Leaving Certificate, and
- (d) has, after obtaining such a certificate, either
 - (i) taught for at least two years in a school recognised by the Director, or
 - (ii) successfully completed a year's course of approved preliminary teacher training and taught for at least a year in a school recognised by the Director.

15. (1) A person may be enrolled as a vernacular teacher in an area in which the registration and employment of vernacular teachers has been approved by a Regional Board, provided that in the Northern Provinces he shall have completed Class Elementary IV and that the Provincial Education Officer is satisfied that he is a fit person to be so enrolled.

Enrolment of vernacular and probationary teacher.

(2) Except with the permission of the appropriate Deputy Director or Colony Education Officer no person other than a vernacular teacher shall be registered as a probationary teacher unless he is in possession of a recognised primary school leaving certificate.

(3) Where a teacher is required to teach in an Elementary or Junior Primary School in which the dominant vernacular is the medium of instruction throughout, the Provincial Education Officer must be satisfied before his appointment that he has a sound knowledge of the dominant vernacular used in the area concerned.

16. Application for the enrolment of a person upon the register shall be made by the person himself in the form prescribed by the Director.

Application for enrolment as a teacher.

17. The Director on the advice of the appropriate Regional Board may refuse to enrol any person in the register of teachers if he is satisfied that the applicant is not a fit and proper person to be a teacher.

Refusal to enrol a teacher.

18. A teacher's name may be temporarily removed from the register of teachers by the Director for such time as the Director may order, if it is shown to the satisfaction of the Director that such teacher has been guilty of misconduct, or of a breach of the Ordinance or of any regulations made thereunder, or has failed to fulfil the conditions of any agreement or undertaking given by him in consideration of his being trained as a teacher, provided that such agreement or undertaking shall have been approved by the Director after consultation with the Central Board.

Temporary removal of name from register.

19. A teacher's name may be permanently removed from the register of teachers by the Director if it is shown to the satisfaction of the Director that such teacher has been guilty of a criminal offence or grave misconduct, or of a breach of the Ordinance or of any regulations made thereunder, or if such teacher or any person acting on his behalf in making application for his name to be enrolled in the register has made a false statement or has concealed any material fact as to his character, conduct or qualifications, or

Removal of name from register permanently.

if some other person in a testimonial submitted by the applicant in support of his application has fraudulently made a false statement or concealed any material fact as to the character, conduct or qualifications of such teacher.

Teacher to be informed of charge.

20. A teacher's name shall not be removed, whether temporarily or permanently, from the register by the Director until the Director has communicated to such teacher in writing the charge or charges made against him and given such teacher an opportunity of exculpating himself.

Appeal to the Governor.

21. (1) When a teacher's name has been removed, whether temporarily or permanently, from a register by the Director under the provisions of regulation 18 or 19 or where registration has been refused under regulation 17 such teacher may appeal to the Governor against such removal or refusal. Every such appeal shall be addressed in writing to the appropriate Regional Deputy Director or Colony Education Officer and shall be considered by the appropriate Regional Board which shall furnish to the Director a report upon such appeal together with such recommendations as it may think fit to make. The Governor, upon considering such report and recommendations, may confirm the action and order of the Director or may make any of the following orders:—

- (a) if the teacher's name has been temporarily removed, the Governor may order it to be restored forthwith, or may vary, either by increasing or by decreasing, the period for which it has been ordered to be removed, or may order it to be removed permanently;
- (b) if the teacher's name has been permanently removed, the Governor may order it to be restored forthwith, or may order it to be removed for such period as he may determine;
- (c) if the person has been refused registration the Governor may uphold such refusal or order such person's name to be enrolled on the Register of Teachers.

(2) The decision of the Governor shall be final.

Grades of Certificated Teachers.

22. (1) Certificated teachers shall be graded as follows:—

- (a) Elementary Teachers who are certificated to teach in Elementary Schools and Junior Primary Schools and up to and including Standard IV in Senior Primary Schools;
- (b) Higher Elementary Teachers who are certificated to teach up to and including Standard VI in Senior Primary Schools or Class II in Secondary or Modern Schools or Class IV in Middle Schools; and
- (c) Senior Teachers who are certificated to teach in Junior Primary, Senior Primary, Modern and complete Secondary Schools, but in Secondary classes III to VI may teach only the subjects endorsed on their certificates.

(2) Certificated teachers who have one of the qualifications set out in paragraphs (a), (b) and (c) of regulation 12 may teach such subjects and in such classes as the Director may determine.

23. (1) The Director shall cause examinations to be held for the grant of teachers' certificates from time to time. Examinations for the grant of teachers' certificate.

(2) The syllabuses for such examinations and the rules governing their conduct and any changes or amendments thereto shall be approved by the Director after consideration by the Central Board and shall be published in the Gazette; provided that the Director after consideration by the Central Board shall give at least two years' notice of any change in the syllabus for any particular examination by notice in the Gazette.

(3) The Director shall cause such syllabuses and such rules as are in force to be published for sale to the public.

24. (1) Honorary Teachers' Certificates may be granted by the Director to teachers, other than probationary teachers, who have been engaged in teaching for a period of not less than ten years, and who can give evidence of ability and good character to the satisfaction of the Director. Such certificates shall contain an endorsement indicating the standard to which the holder is entitled to teach, or, if the holder is a vocational teacher, the subjects in which he is entitled to teach, and may contain a further endorsement indicating the class of certificate under those regulations to which the honorary certificate shall be deemed equivalent. Honorary certificates.

(2) Any such honorary certificate may be cancelled by the Director at any time.

25. A list of candidates who have been awarded certificates shall be published in the Gazette. Successful candidates.

26. (1) Except with the approval of the Provincial Education Officer no teacher who has been dismissed from any school shall be employed in any Government School or in any school owned by a Voluntary Agency, Native Authority or Local Authority which is in receipt of a grant-in-aid under the provision of the Ordinance. Staffing of schools.

(2) Such approval shall not be given until such Provincial Education Officer has referred the matter to the proprietor or manager by whom the teacher was dismissed.

27. (1) Except with the approval of the appropriate Deputy Director or Colony Education Officer or Provincial Education Officer no certificated teacher shall teach any class higher than that listed in regulation 22 as appropriate to his certificate and no uncertificated or probationary teacher shall teach beyond Standard IV in a Senior Primary School. Certificated teachers.

(2) Teachers in charge of Secondary Schools or Departments must, except in special cases allowed by the Director, be graduates of a British University or other University recognised by the Director.

(3) No probationary teacher shall be in charge of a school.

28. The minimum staff required in any school shall be as follows:— Minimum staffs.

- (a) in a Junior Primary School or Department; one teacher for each forty infants or junior pupils or part thereof on the register;
- (b) in a senior Primary School or Department or Middle School; one teacher for each thirty-six pupils or part thereof on the register;
- (c) in a Secondary or Modern School; one teacher for each thirty pupils or part thereof on the register:

Provided that no teacher may teach more than two classes at the same time; and provided further that for special subjects approved by the Provincial Education Officer and shown in the time-table or by reason of the sickness of a member of the staff or some other special circumstances more than forty junior primary or thirty-six senior primary pupils or thirty pupils in a Secondary or Modern School may be allowed to one teacher at the same time.

Records and books.

29. (1) At every Government, Native Authority, Local Authority or other school which is in receipt of a grant-in-aid under the provision of the Ordinance the following records and books shall be kept by the teacher in charge and produced at the request of an inspecting officer or supervisor:—

- (a) a register of admission, progress and withdrawal and
- (b) a register of attendances and school fees; and
- (c) a log book, in which shall be entered from time to time as they occur the introduction of new books, apparatus or courses of instruction, any plan of lessons approved by an officer of the Education Department, the visits of managers, absence, illness or failure of duty on the part of any of the school staff, or any special event or circumstances affecting the school which may, for the sake of future reference or for any other reason, deserve to be recorded; provided that:—
 - (i) any report made by the Director, a supervisor or an inspecting officer shall be copied verbatim into such log book as soon as possible and shall be checked and signed as correct by the manager at his next subsequent visit; and
 - (ii) save in the case of such reports, opinions shall not be recorded, and
 - (iii) no entry in such log book shall be made except by the manager or teacher in charge; and
- (d) a school cash account showing every item of receipt and expenditure:

Provided that such cash accounts may be kept by the manager if the proprietor so requires; and

- (e) a copy of the Ordinance and all regulations made thereunder and any amendments thereof; and

- (f) a school time-table approved by the Education Department, which must be permanently and conspicuously exhibited in the principal classrooms; provided that such time-table shall show any occasion on which any religious observance is practised or instruction in religious subjects is given;

And provided further that a copy of that part of such time-table which relates to a particular class must be conspicuously exhibited in the room in which such class is accommodated; and

- (g) weekly diaries of literary and practical work and teachers' working notes of at least one lesson per day; and
(h) a visitors' book; and
(i) a corporal punishment book in which shall be entered by the headmaster or senior teacher present, the date of all such punishment awarded, the nature of the offence and of the punishment, the name of the teacher administering the punishment, and the name of the pupil punished; and
(j) a record of progress and of the results of any examinations on which promotions in Senior Primary and Secondary classes have been based.

(2) Items (a), (c) and (d) shall be kept for at least ten years and items (b), (i) and (j) for at least two years after the last entry.

(3) The teacher in charge shall keep and maintain in a conspicuous place in every classroom a notice on which shall be recorded in large characters the superficial area and cubic capacity of the room and the maximum number of pupils authorised by regulation 41 to be accommodated in such room.

30. (1) At every school other than those referred to in regulation 29 there shall be supplied by the manager and kept by the teacher in charge:—

- (a) a combined log and visitors' book in which shall be entered the names and registered numbers of all teachers in the school;
(b) an attendance register showing in different columns:—
(i) the name of each pupil in the school;
(ii) the date of his admission to the school;
(iii) his daily attendance;
(iv) his total attendances for the recurrent year;
(c) a time-table;
(d) a corporal punishment book in which shall be entered by the headmaster or senior teacher present the date of all such punishment awarded, the nature of the offence and of the punishment, the name of the teacher administering the punishment, and the name of the pupil punished.

(2) Item (a) shall be kept for at least ten years and items (b) and (d) shall be kept for at least two years after the last entry.

Offence and
penalty.

31. Failure to comply with the provisions of regulations 29 and 30 shall be an offence and shall upon summary conviction render the manager or teacher in charge liable to a fine of ten pounds and to an additional fine of one pound in respect of each and every day during which such offence continues in addition to any other action which may be taken against him under the Ordinance, provided that no fine shall exceed fifty pounds.

Annual
returns.

32. (1) An annual return shall be furnished by the manager of every Government School or school in receipt of a grant-in-aid or applying for grant under the provisions of the Ordinance to the Regional Deputy Director or Colony Education Officer during the month of October in each year or at such other time as directed on the form prescribed by the Director, and shall be addressed to the Provincial Education Officer of the Province in which the school is situated for transmission to the Regional Deputy Director, or to the Colony Education Officer as is appropriate.

(2) A return to be furnished by the manager of every school other than those referred to in sub-regulation (1) shall be sent during the month of October or at such other time as directed to the Provincial Education Officer of the Province in which the school is situated for transmission to the Regional Deputy Director of Education or to the Colony Education Officer as is appropriate.

(3) Failure to comply with the provisions of sub-sections (1) and (2) of this regulation shall render the manager liable to a fine of ten pounds in respect of each offence or, in the case of a second and subsequent offence to a fine of ten pounds or imprisonment for three months or to both such fine and imprisonment.

Hours of
attendance.

33. In all schools except in special cases approved by the Regional Deputy Director or Colony Education Officer, the total period of instruction each day shall not be less than three and a half hours in the case of Infant schools or departments or four and a half hours in the case of other schools or departments.

Where total
period of
instruction
counts as two
attendance
periods.

34. Where the total period of instruction in any school consists of one period a day during which the pupils receive instruction for not less than three and a half hours in the case of Infant School or departments or not less than four and a half hours in the case of other schools or departments the period shall be divided into two parts each of which shall count as an attendance period.

Attendance
register to
be marked.

35. (1) The attendance register must be marked and finally closed five minutes after an attendance period begins.

(2) If any pupil entered in the register as attending is withdrawn from the school before the attendance period is completed, the entry of an attendance must be cancelled.

Attendance
of children
under five.

36. No attendance shall be reckoned in a school other than a nursery school or class in respect of any child under five years of age.

37. No manager shall retain in any class or department of a school any pupil whose age or record of progress in the opinion of the Provincial Education Officer makes his retention in that class undesirable.

Attendance of children undesirable by reason of age.

38. No medium of instruction other than a Nigerian vernacular or English shall be used in any school without the sanction of the Director.

Medium of instruction.

39. One of the subjects in every school curriculum shall be religious instruction in accordance with a course approved by the Proprietor.

Religious instruction in all schools, etc.

Provided that children whose parents or guardians do not wish them to receive religious instruction shall be given other tuition during the periods assigned to that subject, and provided further that exceptions to this proviso may be permitted in schools entirely supported by private funds.

40. (1) Religious instruction in Government, Native Authority, Local Authority, Local Education Authority and Local Education Committee schools may, at the discretion of the Director or his representative, be imparted by any qualified person during the time set apart for such instruction.

Religious instruction in Government schools.

(2) Where such person is a visitor the ordinary staff of the school shall, during such time, be responsible for the maintenance of discipline and good order, and may be present for that purpose, but shall not otherwise intervene.

(3) If in the opinion of the manager any improper instruction is being given, he shall make a report to the Director or his representative.

(4) The approval of the instructor shall rest with the Director or his representative.

41. The accommodation in any school or class shall be considered insufficient unless at least one hundred cubic feet of internal space and ten square feet of floor area are provided in each classroom in respect of each pupil accommodated therein, provided that in the Northern Provinces at least one hundred and fifty cubic feet of internal space and fifteen square feet of floor space shall be provided in each classroom in respect of each pupil accommodated therein.

Accommodation.

42. (1) All punishment shall be reasonable taking into account the age and sex of the offender and the nature of the offence.

Punishment.

(2) Corporal punishment shall be administered only by the Headmaster or by a teacher authorised by him;

Provided that no female pupil shall receive corporal punishment from a male teacher.

43. (1) A transfer certificate in the form approved by the Director and signed by the head teacher shall, at the request of his parent or guardian, be issued free to a pupil leaving any school on transfer to

Transfer and leaving certificates.

another school, provided that no transfer certificate need be given unless all tuition and boarding fees owed by the pupil to the school have been paid.

(2) A leaving certificate signed by the head teacher, manager, supervisor or Education Officer, shall, at the request of his parent or guardian be issued free to a pupil leaving any school provided that no leaving certificate need be given unless all tuition and boarding fees owed by the pupil to the school have been paid. The leaving certificate shall indicate the highest class which the pupil has passed and the date of the period or periods during which he has attended school.

(3) A head teacher who refuses to give a transfer certificate in accordance with sub-section (1) of this regulation shall be liable to a fine of two pounds.

Admittance of
pupils to school
consequent
upon produc-
tion of transfer
or leaving
certificate.

44. (1) A pupil who has left one school shall not be admitted to another school unless he produces a transfer or leaving certificate from the school he has left showing that no fees are owing to such school.

(2) A head teacher who accepts a pupil without a proper transfer certificate shall be liable to a fine of two pounds.

Exemptions
from the
Ordinance.

45. Institutions and classes solely for the training of priests, ministers and catechists shall be exempted from the provisions of the Ordinance.

SCHEDULE A

NURSERY SCHOOLS OR NURSERY CLASSES

The aim is to teach the children good physical habits and to be socially co-operative. No regular curriculum is laid down but it is assumed that games, stories, simple handwork, and activities suitable to the age of the children will form the basis of instruction.

SCHEDULE B

JUNIOR PRIMARY SCHOOLS—INFANT SECTION

(Normally, a two-year course is contemplated)

1. Speech training dictation and conversation in the children's vernacular. In areas where there is no African language approved or school work in reading and writing, the beginning of speech training and conversation in simple English.
2. In areas where there is an approved vernacular, practice in simple conversational English.

- (3) The elements of reading and writing in an approved African language or, in areas where there is no approved African language, the elements of reading and writing in English.
- (4) Handwriting, the first stages.
- (5) Number.
- (6) Hand and eye training by handicrafts suitable for children of Infant School age.
- (7) Nature study.
- (8) Religious knowledge.
- (9) Training in health habits.
- (10) Physical training through games.
- (11) Drawing and colour work.
- (12) Singing and dancing.

SCHEDULE C

JUNIOR PRIMARY SCHOOLS OR DEPARTMENTS (STANDARDS I AND II)

- (1) Speech training dictation, and oral composition in an African language approved for the area in which the school is situated.
- (2) Speech training and conversation in English.
- (3) Reading and written composition in the approved African language.
- (4) Beginnings of work in the reading and writing of English.
- (5) Handwriting.
- (6) Arithmetic.
- (7) Religious knowledge.
- (8) Nature study and gardening.
- (9) Health habits.
- (10) Physical training through simple exercises, games and dancing.
- (11) General knowledge.
- (12) Handicrafts suitable to the pupils' ages and locality.
- (13) Music.
- (14) Drawing and colour work.

SCHEDULE D

SENIOR PRIMARY SCHOOLS OR DEPARTMENTS (STANDARDS III-VI)

- (1) Oral and written composition, reading and grammar in an approved African language.
- (2) Oral and written composition, recitation, grammar, dictation and reading in English.
- (3) Handwriting.
- (4) Arithmetic.
- (5) Religious knowledge.
- (6) Rural science.
- (7) Domestic subjects and needlework.
- (8) History and citizenship.
- (9) Geography.
- (10) Drawing and colour work.
- (11) Handicrafts suited to the age and sex of the pupils and to the locality.
- (12) Physical training and organised games.
- (13) Music.

SCHEDULE E

SECONDARY SCHOOLS OR DEPARTMENTS (MIDDLE CLASSES OR FORMS I-VI)

A selection from the following subjects:—

- English language and literature.
- Mathematics.
- Natural sciences.
- Agriculture.
- African languages.
- Classical and modern languages.
- History.
- Geography.
- Handicrafts and engineering drawing.
- Domestic subjects and needlework.
- Religious knowledge.
- Commercial subjects.
- Physical training and organised games.
- Art.
- Music.

SCHEDULE F

MODERN SCHOOLS, MODERN DEPARTMENTS OR MODERN CLASSES

(Post-primary schools or classes in which the following are the subjects of instruction):—

English, including literature and speech training;

Arithmetic;

Geography;

Physiology *or* Elementary science *or* Nature study;

Physical training;

and some or all of the following at the discretion of the Principal and Education Officer of the region in which the school is situated:—

History;

Arts and Crafts;

Home Economics;

Music.

SCHEDULE G

LITERACY CLASSES

Reading and writing in an African language or in English.

The elements of number as in Schedule B.

MADE by the Governor in Council at Lagos this 2nd day of September, 1949.

P. H. BALMER,
Clerk of the Executive Council.



Assented to in His Majesty's name this 5th day of April, 1949.

J. S. MACPHERSON,
Governor.

(L.S.)

No. 11



1949

Colony and Protectorate of Nigeria

IN THE THIRTEENTH YEAR OF THE REIGN OF
HIS MAJESTY KING GEORGE VI
SIR JOHN STUART MACPHERSON, K.C.M.G.
Governor and Commander-in-Chief

AN ORDINANCE TO MAKE PROVISION FOR THE MARKETING AND EXPORT ^{Title.}
OF NIGERIAN GROUNDNUTS AND CERTAIN OTHER OILSEEDS AND
FOR MATTERS CONNECTED THEREWITH.

[] Date of commencement.

BE IT ENACTED by the Governor of Nigeria, with the advice ^{Enactment.}
and consent of the Legislative Council thereof, as follows:—

PART I

PRELIMINARY

1. This Ordinance may be cited as the Nigeria Groundnut ^{Short title and commencement.}
Marketing Ordinance, 1949, and shall come into operation on a
date to be fixed by the Governor by notice in the Gazette.

2. In this Ordinance, unless the context otherwise requires—
"crop year" means such period as may be specified by the
Groundnut Marketing Board for any of the produce subject

to this Ordinance;
"export" with its grammatical variations and cognate
expressions means to take or cause to be taken out

of Nigeria;
"licensed buying agent" means a buying agent in possession
of a valid licence granted by the Marketing Board under
section 17 for the purchase of produce subject to this Ordinance for sale to the Marketing Board;

"Marketing Board" means the Nigeria Groundnut
Marketing Board established under section 3;
"Region" means the Northern Provinces of Nigeria
as defined in the Nigeria (Legislative Council) Order in
1946;

"Production Development Board" means the Northern
Production Development Board established
under section 11 of the Nigeria (Legislative Council) Order in
1946;

"produce" means such other produce as may, from time
to time, be specified in the Schedule by order of the Governor
under section 11 of the Nigeria (Legislative Council) Order in
1946;

"subject" with its grammatical variations and cognate
expressions means the produce mentioned in the Schedule to
this Ordinance;
"exchange or barter" means the Groundnut
Marketing Board established under section 30;
"barter" means the Groundnut Marketing Board established
under section 30;

"barter" means the Groundnut Marketing Board established
under section 30;
"barter" means the Groundnut Marketing Board established
under section 30;

"barter" means the Groundnut Marketing Board established
under section 30;

"barter" means the Groundnut Marketing Board established
under section 30;

TITUTION OF THE

BOARD

coming into operation of
for the purposes thereof a
Nigeria Groundnut Marketing
with perpetual succession
and be sued in its corporate

(2) The Marketing Board shall consist of a Chairman to be appointed as such by the Governor, two official members to be appointed by the Governor and three Nigerian unofficial members normally resident in the Northern Region to be appointed by the Governor.

(3) The Governor may appoint a person to be a member of the Marketing Board by name, or, in the case of an official member, by designating the office of which he is the holder.

4. The Chairman and other members of the Marketing Board shall, subject to the Governor's pleasure, hold office for three years from the dates of their respective appointments but shall be eligible for re-appointment. Term of office.

5. (1) When the Chairman is temporarily absent from Nigeria or otherwise is temporarily incapacitated from performing the functions of his office, the Governor may appoint a person, whether or not such person is a member of the Marketing Board, to be Chairman during such period of absence or incapacity. Temporary absence of Chairman.

(2) Upon any temporary appointment being made under the provisions of sub-section (1) all the powers and duties of the Chairman under this Ordinance shall devolve upon the person so temporarily appointed.

6. When a member of the Marketing Board is temporarily incapacitated from performing his functions as a member by reason of his temporary absence from Nigeria or for any other good cause, the Governor may appoint a person temporarily to be a member during such period of incapacity, and during such period all the powers and duties of the member so temporarily incapacitated shall devolve upon the member so temporarily appointed. Temporary absence of a member.

7. Where upon any special occasion the Marketing Board desires to obtain the advice of any person upon any particular matter, the Marketing Board may co-opt such person to be a member for such meeting or meetings as may be required, and such person, while so co-opted, shall have all the rights and privileges of a member save that he shall not be entitled to vote upon any question. Power to co-opt.

8. The Chairman duly appointed under the provisions of this Ordinance shall have an original vote and, where the votes are equally divided, a casting vote in addition to his original vote. Chairman to have original and casting vote.

9. At a meeting of the Marketing Board two members and the Chairman shall be a quorum. Quorum.

Meetings.

10. The Marketing Board shall meet at least twice in each year and at such other times as may be required by Standing Orders made under section 15.

Special meetings.

11. (1) Any two members of the Marketing Board may, by notice in writing signed by them, request the Chairman to call a special meeting of the Marketing Board for the purposes set out in such notice.

(2) The Representative Committee or the Production Development Board may, by a resolution signed by the majority of their members, request the Chairman of the Marketing Board to call a special meeting of that Board for the purposes set out in that resolution.

(3) The Chairman shall, upon receipt of any such notice or resolution, summon a special meeting of the Marketing Board for such purposes at the earliest convenient date.

Secretary to the Marketing Board.

12. (1) The Governor shall appoint by name or office a Secretary to the Marketing Board who shall conduct the correspondence and keep the records thereof and perform such other duties as the Marketing Board may from time to time direct or which are placed upon him under the provisions of this Ordinance or any other written law.

(2) The Secretary shall be an officer, but not a member, of the Marketing Board.

Exemption from certain provisions of the Income Tax Ordinance, 1943.

13. The Marketing Board is hereby exempted from the provisions of sections 26 and 43 of the Income Tax Ordinance, 1943.

Delegation of powers and appointment of agents.

14. (1) The Marketing Board may, with the approval of the Governor,—

(a) by the majority vote of all its members delegate to the Chairman the routine administration of the affairs of the Board;

(b) from time to time, in like manner, appoint agents to perform any of the powers or duties conferred or imposed upon the Marketing Board, and for the purposes of this paragraph the term "agent" shall include a department of the Government or a native authority or group of native authorities.

(2) Nothing contained in this section shall be deemed to authorize the Marketing Board to delegate to the Chairman the power to make Standing Orders or to do any act involving extraordinary expenditure or to fix or control the price of produce subject to the provisions of this Ordinance or to authorize any agent to exercise any power or duty outside the scope of the written appointment of such agent.

15. The Marketing Board may, with the approval of the Governor, from time to time make Standing Orders providing for the proper conduct of its business and for meetings of the Board and in particular for—

Standing Orders.

- (a) the custody and use of the common seal; and
- (b) the method of entering into contracts and the execution thereof, and the signing of cheques and other similar instruments.

PART III FUNCTIONS, POWERS AND DUTIES OF THE MARKETING BOARD

16. It shall be the duty of the Marketing Board to secure the most favourable arrangements for the purchase and grading for export and for the export and sale of the produce subject to the provisions of this Ordinance, and, by means of its allocation of funds to the Production Development Board under sections 17 and 26, to promote the development of the producing industries concerned and the benefit and prosperity of the producers and the areas of production.

General functions of the Marketing Board.

17. In particular, and without prejudice to the generality of the provisions of section 16, the Marketing Board shall have power—

Specific powers of the Marketing Board.

- (a) to control and fix the prices to be paid from time to time for produce subject to this Ordinance which is to be exported or sold under the provisions of sub-section (1) of section 60. or for any grade of such produce at any place or within any specified area, and similarly to notify such prices in such manner as the Marketing Board may deem requisite;
- (b) to prescribe as may be necessary grades of produce subject to this Ordinance which may be exported;
- (c) to purchase produce subject to this Ordinance for export and to do all things necessary for and in connection with the purchase of such produce;

- (d) to appoint licensed buying agents for the purchase of produce subject to this Ordinance for export by the Board;
- (e) to control and fix the prices to be paid from time to time to licensed buying agents for the produce which they purchase on behalf of the Board;
- (f) to control and regulate the activities and remuneration, by licence or otherwise, of all persons or classes of persons connected with the sale and purchase for export of produce subject to this Ordinance and, if necessary, to prohibit any person or class of person from dealing in such produce for export;
- (g) to grant, renew or withhold licences for each crop year in respect of licensed buying agents, to impose conditions upon the grant or renewal of such licences in respect of the area in which the produce is to be purchased or sold or otherwise disposed of, and to cancel or suspend any licence for a breach of any such condition or for other good cause;
- (h) to grant, withhold or cancel in its absolute discretion any written authority given under sections 58 or 59;
- (i) to do all things necessary for and in connection with the storage, export, shipping and sale of produce subject to the provisions of this Ordinance;
- (j) to apply its funds to the purposes prescribed by section 26 of this Ordinance;
- (k) to prescribe specific periods during which the buying for export of produce subject to the provisions of this Ordinance shall be prohibited, restricted or allowed.

Marketing Board to purchase produce for export from producers.

18. The Marketing Board shall purchase for export all produce subject to this Ordinance which is suitable for export and offered for sale to the Marketing Board.

Power of Marketing Board to enter into arrangements.

19. The Marketing Board may, from time to time, enter into any arrangement with the Government of any country or with any department, authority or person in any country, for or in connection with any of its functions under this Ordinance.

20. (1) The Marketing Board shall seek the advice of the Representative Committee on all matters in connection with the purchase of, and the prescription of grades for, produce subject to this Ordinance. Marketing Board to consult Representative Committee.

(2) The Marketing Board may refer any matter in connection with the exercise of its functions, powers and duties to the Representative Committee for advice.

(3) If the Marketing Board fails to accept the advice offered to it by the Representative Committee on any matter within the scope of sub-section (1), the Chairman shall forthwith report the matter to the Governor in Council with the reasons for such refusal.

21. (1) As soon as may be after the last day of any crop year which may be fixed in respect of produce subject to this Ordinance, the Marketing Board shall prepare a report of its operations during the preceding year, and shall forward such report to the Governor in Council, together with a certified copy of the audited accounts of the Marketing Board. Annual report and statement of accounts.

(2) The annual report and the certified copy of the audited accounts of the Marketing Board shall be published in such manner as the Governor in Council may direct and shall be laid upon the table of the Legislative Council.

PART IV FINANCIAL PROVISIONS RELATING TO THE MARKETING BOARD

22. The Marketing Board may, with the approval of the Governor in Council, purchase, hold, manage and dispose of any property whatsoever whether real or personal and whether by way of investment or otherwise, and may enter into any contract. Power of Marketing Board to acquire real and personal property and to contract.

23. (1) Moneys standing to the credit of the Marketing Board may, from time to time, be invested in securities approved either generally or specifically by the Governor and the Board may, from time to time, with like approval, sell any or all of such securities. Investments.

(2) (a) It shall be lawful for the Board to make and for the Government to receive loans out of moneys standing to the credit of the Board upon such terms as may be agreed by and between the Board and the Government.

(b) An agreement for a loan made pursuant to the provisions of paragraph (a) shall be of no force or effect whatsoever until the terms thereof have been approved by the Legislative Council by resolution.

Power to borrow.

24. The Marketing Board may, with the approval of the Governor in Council, from time to time borrow, whether by way of mortgage or otherwise, such sums of money for and in connection with the exercise of its functions, powers and duties under this Ordinance as the Marketing Board may deem necessary.

Funds of the Marketing Board.

25. The funds and resources of the Marketing Board shall be—

- (a) such sums as may, from time to time, be paid to the Marketing Board from the amounts standing to the credit of the West African Produce Control Board in respect of groundnuts and benniseed, in the books of the Government;
- (b) such sums as may be appropriated from time to time to the Board by any vote of the Legislative Council or by any resolution of the Legislative Council allotting moneys under the provisions of any written law;
- (c) moneys derived from the sale of produce subject to this Ordinance;
- (d) moneys earned or arising from any property and investments acquired by or vested in the Marketing Board;
- (e) moneys raised by loan under the powers to borrow vested in the Marketing Board by this Ordinance;
- (f) all other sums or property which may, in any manner, become payable to or vested in the Marketing Board in respect of any matter incidental to its functions, powers and duties.

Expenditure.

26. (1) The Marketing Board may, from time to time, apply the funds at its disposal—

- (a) to or in connection with the purchase of produce subject to this Ordinance;
- (b) for or in connection with all or any of its functions, powers and duties under this Ordinance;
- (c) to the cost of administration of the Marketing Board;
- (d) to the remuneration, honoraria and expenses of the members of the Marketing Board or of any class of member in respect of their duties under this Ordinance;

- (e) to the cost of the administration of the Representative Committee and the remuneration, honoraria and expenses of its members or any class of member in respect of their duties under this Ordinance;
- (f) to the payment of the salaries, gratuities or pensions of the servants of the Board;
- (g) to the interest payable in respect of any moneys borrowed under the provisions of this Ordinance;
- (h) to the stabilization of prices to the producers as required and as far as possible;
- (i) to the cost of scientific research into all matters affecting the produce subject to this Ordinance;
- (j) to grants to the Production Development Board for expenditure by that Board on the development of the producing industries concerned and for the economic benefit and prosperity of the producers and the areas of production, and for the Production Development Board's own necessary expenses.

(2) If in the course of its operations the Marketing Board markets produce subject to this Ordinance which is purchased outside the Northern Region, any profits which it makes by the sale of such produce, after deducting due provision for the purposes specified in paragraphs (a) to (j) of sub-section (1) of section 26, shall be held by the Marketing Board at the disposal of the Governor who shall, unless there is good reason to the contrary, direct the transfer of the profits in question to the Regional Production Development Board established under section 38 of the Nigeria Oil Palm Produce Marketing Ordinance, 1949, for the region in which the produce was bought.

27. The Marketing Board may, with the approval of the Governor,—

- (a) from time to time appoint, upon such salaries, terms and conditions as it may think fit, such officers and employees as may be necessary for the proper and efficient conduct of the operations of the Marketing Board;
- (b) grant pensions, gratuities, or retiring allowances to any officer or employee and may require officers and employees to contribute to any pension or contributory scheme.

Servants of
the Market-
ing Board.

Accounts and audit.

28. The Marketing Board shall keep accounts of its transactions to the satisfaction of the Governor in Council and the accounts for each crop year shall be audited by the Audit Department of Government or by a person approved by the Governor.

Bad debts.

29. The Board may, with the approval of the Governor in Council, write off bad debts.

PART V

THE GROUNDNUT REPRESENTATIVE COMMITTEE

Establishment of Groundnut Representative Committee.

30. There shall be established a committee to be known as the Groundnut Representative Committee, which shall consist of—

- (a) a Chairman to be appointed by the Governor by name or office;
- (b) two official members to be appointed by the Governor by name or office;
- (c) one representative, to be appointed by the Governor, of the licensed buying agents;
- (d) six Nigerian members, of whom one shall be appointed by the Marketing Board from among its Nigerian members, two shall be appointed by the House of Chiefs, and three shall be appointed by the Unofficial Members of the Northern House of Assembly.

Secretary to the Representative Committee.

31. The Chief Commissioner, Northern Provinces, may appoint a person, by name or office, to be Secretary to the Representative Committee.

Terms of office.

32. The Chairman and members of the Representative Committee shall hold office for three years from the dates of their respective appointments unless otherwise specifically stated in the instrument of appointment and they shall be eligible for re-appointment.

Vacancies.

33. When the Chairman or any member of the Representative Committee is temporarily absent from Nigeria or otherwise temporarily incapacitated from performing the functions of his office, the provisions of section 5 or section 6, as the case may be, shall apply *mutatis mutandis*, save only that the Chief Commissioner, Northern Provinces, shall make temporary appointments as required.

Chairman to have original and casting vote.

34. The Chairman duly appointed under the provisions of this Ordinance shall have an original vote and, where the votes are equally divided, a casting vote in addition to his original vote.

35. At a meeting of the Representative Committee, the Chairman and four members shall be a quorum.

36. (1) It shall be the duty of the Representative Committee from time to time as may be required—

Functions, powers and duties of the Representative Committee.

(a) to advise the Marketing Board on all matters in connection with the purchase and grading of produce subject to this Ordinance;

(b) to advise the Marketing Board on any matters which the Marketing Board may refer to it under subsection (2) of section 20;

(c) to advise the Production Development Board, as and when required by that Board, on all matters connected with the development of the producing industries concerned and on any scheme for the development of such industries or for the benefit and prosperity of the producers or of the areas of production.

(2) The Representative Committee may tender advice either to the Marketing Board or to the Production Development Board on any matters relating to the exercise by those bodies of their functions, powers and duties without any specific reference being made to the Representative Committee by the Marketing Board or the Production Development Board.

(3) The Representative Committee may appoint a sub-committee for the purpose of dealing with benniseed or any other commodity which is or may be made subject to this Ordinance.

37. The Representative Committee may, with the approval of the Governor, from time to time make Standing Orders providing for:—

Standing Orders.

(a) the proper conduct of its business;

(b) the meetings of the Representative Committee; and

(c) the expenses of members attending meetings of the Representative Committee.

PART VI

THE NORTHERN REGIONAL PRODUCTION DEVELOPMENT BOARD

38. (1) There shall be established a Board to be known as the Northern Regional Production Development Board which shall be a body corporate with perpetual succession and a common seal and with power to sue and be sued in its corporate name.

Establishment of the Northern Regional Production Development Board.

(2) The Northern Regional Production Development Board shall consist of not less than eight nor more than twelve members of whom—

- (a) one shall be an official to be appointed by the Chief Commissioner, Northern Provinces, either by name or by office, as Chairman of the Northern Regional Production Development Board;
- (b) one shall be an official member of the Northern House of Assembly to be appointed either by name or by office by the Chief Commissioner, Northern Provinces;
- (c) not less than two and not more than four shall be appointed from among their number by the Unofficial Members of the Northern House of Assembly;
- (d) not less than two and not more than four shall be appointed from among their number by the Unofficial Members of the House of Chiefs; and
- (e) two shall be appointed by the Representative Committee from among their unofficial members.

Term of office.

39. The Chairman and other members of the Production Development Board shall hold office for three years from the dates of their respective appointments unless otherwise specifically stated in the instrument of appointment and they shall be eligible for re-appointment.

Vacancies.

40. When the Chairman of the Production Development Board or a member thereof is temporarily absent from Nigeria or otherwise temporarily incapacitated from performing the functions of his office, the provisions of section 5 or section 6, as the case may be, shall apply *mutatis mutandis* save only that the Chief Commissioner, Northern Provinces, shall make the temporary appointment as required.

Chairman to have original and casting vote.

41. The Chairman of the Production Development Board duly appointed under the provisions of this Ordinance shall have an original vote and, where the votes are equally divided, a casting vote in addition to his original vote.

Quorum.

42. Unless otherwise provided in Standing Orders made under section 47, a quorum at a meeting of the Production Development Board shall be the Chairman and five members.

43. The Production Development Board shall meet at least Meetings. twice in each year and at such other times as may be required by Standing Orders made under section 47.

44. (1) Any four members of the Production Development Board may by notice in writing signed by them request the Chairman to call a special meeting of the Production Development Board for the purposes set out in such notice. Special meetings.

(2) The Representative Committee may by a resolution signed by the majority of its members request the Chairman of the Production Development Board to call a meeting of that Board for the purposes set out in that resolution.

(3) The Chairman shall upon receipt of any such notice or resolution summon a special meeting of the Production Development Board for such purposes at the earliest convenient date.

45. The Chief Commissioner, Northern Provinces, shall appoint by name or by office a Secretary to the Production Development Board. Secretary to the Board.

46. (1) The Production Development Board may, with the approval of the Chief Commissioner, Northern Provinces— Delegation of powers and appointment of agents.

(a) by the majority vote of all its members delegate to the Chairman the routine administration of the affairs of the Production Development Board;

(b) from time to time, in like manner, appoint agents to perform any of the powers or duties conferred or imposed on the Production Development Board, and for the purposes of this paragraph the term "agent" shall include a department of the Government or a native authority or a group of native authorities.

(2) Nothing contained in this section shall be deemed to delegate to the Chairman the power to make Standing Orders or to do any act involving extraordinary expenditure or to authorize any agent to exercise any power or duty outside the scope of the written appointment of such agent.

47. The Production Development Board may, with the approval of the Chief Commissioner, Northern Provinces, from time to time, make Standing Orders providing for the proper conduct of its business and for meetings and, in particular, for the method of entering into contracts and the execution thereof, and the signing of cheques and other similar instruments. Standing Orders.

Primary
functions of
Production
Develop-
ment Board.

48. (1) It shall be the duty of the Production Development Board to plan the expenditure of, and to expend, any funds accruing to it by grants from the Marketing Board or otherwise, for the development of the producing industries concerned and for the benefit and prosperity of the producers and the areas of production.

(2) Schemes for expenditure on the purposes indicated in sub-section (1) of this section shall be subject to the approval of the Governor, which approval shall not however be withheld if, in the judgment of the Governor, the scheme is within the resources of the Production Development Board and within the purposes to which the Production Development Board is empowered to devote its funds.

Power of
Production
Development
Board to
acquire real
and personal
property and to
contract.

49. The Production Development Board may, with the approval of the Chief Commissioner, Northern Provinces, purchase, hold, manage and dispose of any property whatsoever whether real or personal and whether by way of investment or otherwise, and may enter into any contract.

Investments.

50. Moneys standing to the credit of the Production Development Board may, from time to time, be invested in securities approved either generally or specifically by the Chief Commissioner, Northern Provinces, and the Production Development Board may, from time to time, with like approval, sell any or all of such securities.

Funds of
Production
Develop-
ment Board.

51. The funds and resources of the Production Development Board shall be—

- (a) such sums as may be, from time to time, granted by the Marketing Board under paragraph (j) of sub-section (1) of section 26;
- (b) such sums as may be appropriated from time to time to the Production Development Board by any vote of the Legislative Council or by any resolution of the Legislative Council allotting moneys under the provisions of any written law;
- (c) moneys earned or arising from any property and investments acquired by or vested in the Production Development Board;
- (d) all other sums or property which may in any manner become payable to or vested in the Production Development Board in respect of any matter incidental to its functions, powers and duties.

52. The Production Development Board is hereby exempted from the provisions of sections 26 and 43 of the Income Tax Ordinance, 1943.

Exemption from Income Tax Ordinance, 1943.
Expenditure.

53. In addition to expending its funds in pursuance of its main functions as prescribed in section 48, the Production Development Board may, from time to time, apply the funds at its disposal to its own necessary expenses, including the remuneration, honoraria and expenses of its members in respect of their duties as such members, and the payment of the salaries, gratuities or pensions of its servants.

54. The Production Development Board may, with the approval of the Chief Commissioner, Northern Provinces,—

Servants of the Board.

(a) from time to time, upon such salaries, terms and conditions as it may think fit, appoint such officers and employees as may be necessary for the proper and efficient conduct of its operations;

(b) grant pensions, gratuities or retiring allowances to any officer or employee and may require officers and employees to contribute to any pension or contributory scheme.

55. The Production Development Board shall keep accounts of its transactions to the satisfaction of the Chief Commissioner, Northern Provinces, and such accounts shall be audited in respect of every year ending the thirty-first day of March by the Audit Department of Government or by a person approved by the Chief Commissioner, Northern Provinces.

Accounts and audit.

56. The Production Development Board may, with the approval of the Chief Commissioner, Northern Provinces, write off bad debts.

Bad debts.

57. (1) The Production Development Board shall in respect of each year ending the thirty-first day of March submit to the Chief Commissioner, Northern Provinces, a report containing—

Report.

(a) an account of its transactions throughout the year in such detail as the Chief Commissioner, Northern Provinces, may direct; and

(b) a statement of the accounts of the Board duly audited in accordance with the provisions of section 55.

(2) A copy of the report together with a copy of the report of the auditor shall be printed and laid on the table of the Northern House of Assembly and on the table of the House of Chiefs.

PART VII

RESTRICTION ON EXPORT AND ON PURCHASE FOR
LOCAL PROCESSING IN CERTAIN CIRCUMSTANCES

Restriction
on persons
who may
export. **58.** From and after the commencement of this Ordinance, no person shall export produce subject to this Ordinance except—

- (a) a licensed buying agent acting on behalf of the Marketing Board; or
- (b) any other person duly authorized by the Marketing Board to act on its behalf.

Restriction
on produce
which may
be exported. **59.** From and after the commencement of this Ordinance, no produce which is subject to this Ordinance shall be exported other than—

- (a) produce which is the property of the Marketing Board; or
- (b) produce the export of which has been duly authorized in writing by the Marketing Board.

Local
processing. **60.** (1) The Marketing Board may direct that any produce subject to this Ordinance which is purchased for mechanized processing in Nigeria shall be purchased from the Marketing Board.

(2) No oil or other product resulting from the local processing of produce subject to this Ordinance shall be exported except by the Marketing Board.

PART VIII
OFFENCES

False representation. **61.** Any person who falsely holds himself out or represents himself to be a licensed buying agent, or a person acting on the authority or instructions of the Marketing Board, shall be guilty of an offence.

General offences. **62.** Any person who contravenes or fails to comply with any of the provisions of this Ordinance or who contravenes or fails to comply with the terms or conditions of any licence or authority granted under the provisions of this Ordinance shall be guilty of an offence.

Penalty. **63.** Any person convicted of an offence against this Ordinance shall be liable to a fine of five hundred pounds or to imprisonment for two years or to both such fine and imprisonment.

64. Where an offence against this Ordinance is committed by a body corporate and such offence has been committed on the direction of or with the consent or approval of any director, manager, secretary or other officer of such body corporate, that individual, as well as such body corporate, shall be guilty of that offence and may be proceeded against, and if convicted, be punished accordingly.

Special provision as to directors.

PART IX
GENERAL

65. (1) Where the Marketing Board ceases for any reason to exercise its functions under this Ordinance whether by reason of the repeal of this Ordinance or otherwise, the funds of the Marketing Board shall be allocated for the benefit of the Northern, Eastern and Western Regions and of the Colony in such proportions as the Legislative Council, having due regard to the volume of produce marketed in each region, may by resolution direct.

Control of funds of the Boards on dissolution.

(2) Such funds as are thereby allocated for the benefit of the Colony shall be disposed of for the benefit of the Colony and in such manner as the Governor in Council may direct.

(3) Such funds as are thereby allocated for the benefit of the Northern, Eastern or Western Regions shall be disposed of for the benefit of such regions and in such manner as the House of Chiefs and the Northern, Eastern or Western Houses of Assembly may respectively by resolution direct.

66. Any person aggrieved by the refusal by the Marketing Board to grant or renew a licensed buying agent's licence or any authority or by any term or condition in any such licence or in any authority may, within fourteen days of such refusal or of the imposition of the terms or conditions complained of, appeal in writing to the Governor in Council, whose decision shall be final.

Appeals.

67. The Governor in Council may make regulations generally for carrying into effect the provisions of this Ordinance and, in particular and without prejudice to the generality of the foregoing,—

Regulations.

- (a) for the licensing of buying agents;
- (b) requiring books and accounts to be kept by licensed buying agents and for the inspection thereof;
- (c) for the appointment and duties of inspectors;
- (d) prescribing fees; and

- (e) imposing penalties for offences against regulations made under this Ordinance to a limit of a fine of one hundred pounds or imprisonment for twelve months or both such fine and imprisonment.

SCHEDULE

Groundnuts

Benniseed

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

S. ADE. OJO,
Clerk of the Legislative Council.

Colony and Protectorate of Nigeria—1948 Revision

CHAPTER 105

LAND AND NATIVE RIGHTS

(Protectorate)

AN ORDINANCE TO DEFINE AND REGULATE THE TENURE OF LAND
WITHIN THE NORTHERN PROVINCES OF THE PROTECTORATE
AND THE CAMEROONS UNDER BRITISH MANDATE.

Ordinances
No. 1 of
1916*
18 of 1918
33 of 1924
1 of 1925
(19th Febru-
ary, 1925)
23 of 1926
1 of 1927
23 of 1929
24 of 1929
25 of 1933
45 of 1933
47 of 1935
9 of 1938
26 of 1938
22 of 1939
3 of 1941
7 of 1942
14 of 1943
23 of 1943.

(Amended by No. 1 of 1925.)

[25th February, 1916]

WHEREAS it is expedient that the existing customary rights of the natives of the Northern Provinces and of the Cameroons under British Mandate to use and enjoy the land of the Protectorate and the natural fruits thereof in sufficient quantity to enable them to provide for the sustenance of themselves and their families should be assured, protected, and preserved;

Preamble.

AND WHEREAS it is expedient that existing native customs with regard to the use and occupation of land should, as far as possible, be preserved;

AND WHEREAS it is expedient that the rights and obligations of the Government in regard to the whole of the lands within the boundaries of the Northern Provinces of the Protectorate and of the Cameroons under British Mandate and also the rights and obligations of cultivators or other persons claiming to have an interest in such lands should be defined by law:

(Amended by No. 1 of 1925.)

* Chapter 85 of the 1923 edition of the Laws: applied to the Cameroons under British Mandate by Ordinance No. 1 of 1925. The modifications in the First Schedule to that Ordinance have been incorporated in the sections of this Chapter to which they refer.

Land and Native Rights

- Enactment. BE IT ENACTED by the Governor of the Protectorate of Nigeria as follows :—
- Short title and application. 1. This Ordinance may be cited as the Land and Native Rights Ordinance, and shall apply to the Northern Provinces of the Protectorate and the Cameroons under British Mandate.
(Amended by No. 1 of 1925.)
- Interpretation. 2. Definitions :—
- “agricultural purposes” includes the planting of rubber, cocoa and other trees and plants of economic value ;
- “a right of occupancy” means a title to the use and occupation of land and includes the title of a native or native community lawfully using or occupying land in accordance with native law and custom, but does not include a licence granted under section 25 ; (Added by No. 23 of 1926.)
- “grazing purposes” includes only such agricultural operations as are required for growing fodder for live stock on the grazing area ;
- “native” means a person whose parents were members of any tribe or tribes indigenous to the Northern Provinces or the Cameroons under British Mandate and the descendants of such persons, and includes—
- (a) any person one of whose parents was a member of such tribe, and
- (b) any person who shall have obtained a certificate from the Governor in the form in the Second Schedule, which certificate the Governor is hereby authorised to grant, at his discretion, to any native of Africa who shall have declared his intention of making the Northern Provinces or the Cameroons under British Mandate his permanent domicile and who shall have satisfied the Governor that he has obtained the consent of the native communities concerned ; (Amended by No. 1 of 1925.)
- “non-native” means any person other than a native as above defined ;
- “Northern Provinces” means that part of the Protectorate which on the 31st December, 1913, was included in the Protectorate of Northern Nigeria, and includes any other part of the Protectorate which has been or may hereafter be included in the Northern Provinces, and which the Governor, with

Land and Native Rights

the consent of the Secretary of State, shall, by notice in the Gazette, direct shall be included in the Northern Provinces for the purposes of this Ordinance;⁽¹⁾

“occupier” means the holder of a right of occupancy and includes a native or native community lawfully using or occupying land in accordance with native law and custom; (*Added by No. 23 of 1926.*)

“public purposes” has the meaning assigned to that term by the Public Lands Acquisition Ordinance; (*Amended by No. 18 of 1918.*) Cap. 185.

“unexhausted improvement” means anything or any quality permanently attached to the land, directly resulting from the expenditure of capital or labour by an occupier or any person acting on his behalf, and increasing the productive capacity, the utility or the amenity thereof, but does not include the results of ordinary cultivation other than growing produce.

3. (1) Save and except—

(a) all those lands in the Cameroons under British Mandate which are described in the deeds specified in the Fourth Schedule to this Ordinance, and

(b) all land to which a title shall have been established in accordance with the provisions of section 22, and

(c) all land or interests therein in respect of which a title has been granted under the provisions of section 23,

the whole of the lands of the Northern Provinces and of the Cameroons under British Mandate, whether occupied or unoccupied, are hereby declared to be native lands:

Provided that wherever any of the lands which are or have been included in paragraphs (a), (b) or (c) contain or are expressed to contain native reserves or lands required to be set aside for native reserves or wherever or whenever the whole or any portion of any of the lands included in the said paragraphs shall have been acquired by the Governor whether by purchase or otherwise for the purpose of native reserves such native reserves and lands required to be set aside for native reserves or purposes connected therewith shall be deemed to be native lands:

Provided further that nothing in this Ordinance contained shall affect the rights of the Governor or of the Niger Company

Native lands defined.

Fourth Schedule.

Proviso as to rights of the Crown and Niger Company over certain lands.

⁽¹⁾ See Notice 81 of the 9th of May, 1918, directing that those parts of the Southern Provinces which have been transferred to the Northern Provinces by the readjustment of the boundaries shall be included.

Land and Native Rights

- in, to or over the land specified or referred to in the agreements or instruments mentioned in the Second and Third Schedules or either of them to the Niger Lands Transfer Ordinance. (*Amended by No. 1 of 1925, 47 of 1935 and 9 of 1938.*)
- Cap. 149. (2) The Governor in Council may by order insert in or add to the Fourth Schedule additional items together with the descriptions thereof. (*Added as section 5 to No. 1 of 1925 (now Chapter 27) by No. 9 of 1938 and incorporated herein.*)
- Power to add to Fourth Schedule. 4. All native lands, and all rights over the same, are hereby declared to be under the control and subject to the disposition of the Governor, and shall be held and administered for the use and common benefit of the natives : and no title to the occupation and use of any such lands shall be valid without the consent of the Governor.
- Native lands under control of the Governor. 5. The Governor, in the exercise of the powers conferred upon him by this Ordinance with respect to any land, shall have regard to the native laws and customs existing in the district in which such land is situated.
- Powers of the Governor to be exercised with regard to native customs. 6. It shall be lawful for the Governor⁽¹⁾—
- Power to grant land. (a) to grant rights of occupancy to natives and to non-natives ;
- To demand rent. (b) to demand a rental for the use of any native lands granted to any native or non-native ; and
- To revise rents. (c) to revise the said rental at such intervals as may be specified in the grant. (*Substituted by No. 23 of 1929.*) [7].
- Special contracts. 7. Such rights of occupancy may be for a definite or for an indefinite term, and may be granted subject to the terms of any contract which may be made between the Governor, and the occupier not being inconsistent with the provisions of this Ordinance, or any of them :
- Restrictions. Provided that, subject to the provisions of section 20, the Governor shall not grant rights of occupancy free of rent or upon any conditions which may preclude him from revising the rent in accordance with the provisions of section 6. [8]
- Limitation of areas granted to non-natives for agricultural or grazing purposes. 8. No single right of occupancy granted to a non-native shall exceed one thousand two hundred acres if granted for agricultural purposes, or twelve thousand five hundred acres if granted for

(¹) See Delegation of Powers in Public Notice No. 158 of 1944 as amended by No. 16 of 1948.

Land and Native Rights

grazing purposes. Every native resident on such land shall remain under the control of the native authorities and subject to the same taxation as though he were not so resident. [9]

(Amended by No. 18 of 1918.)

9. Subject to the provisions of the next succeeding section, and of any laws relating to prospecting for minerals or mineral oils or to mining, and to the terms and conditions of any contract under section 7, the occupier shall have exclusive rights to the land the subject of the right of occupancy against all persons other than the Governor. [10]

Rights of occupiers.

10. (1) Every right of occupancy shall be subject to any easement affecting the land at the date of the grant of the right of occupancy.

Reservation of existing easements and of roads of access to neighbouring lands.

(2) The holder of a right of occupancy shall, if required by the Governor, allow a road of access over the land the subject of his right of occupancy to any person occupying land which is so situate that such road of access is, in the opinion of the Governor, reasonably required.

(3) The person requiring a road of access shall pay to the holder of the right of occupancy in respect of the land to be traversed compensation in respect of any growing crops or improvements damaged or destroyed by the construction of the road.

(4) In the event of the holder of a right of occupancy and the person desiring or using a road of access over the land the subject of such right of occupancy being unable to agree as to the direction or width of the road of access or as to any matter in connexion with the construction, repair or use of the road or as to the amount of the compensation to be paid in accordance with the provisions of sub-section (3), any of the parties concerned may appeal to the Governor who may appoint any officer to determine the matters in dispute, and the decision of such officer shall be binding on all persons concerned. [11]

11. Except as may be otherwise provided by the regulations in relation to native occupiers, it shall not be lawful for any occupier to alienate his right of occupancy, or any part thereof by sale, mortgage, transfer of possession, sub-lease or bequest or otherwise howsoever without the consent of the Governor⁽¹⁾

Rights of occupancy may not be alienated without consent of Governor.

⁽¹⁾ See Delegation of Powers in Public Notice No. 158 of 1944 as amended by No. 16 of 1948.

Land and Native Rights

first had and obtained, and any such sale, mortgage, sub-lease, transfer or bequest, effected without the consent of the Governor,⁽¹⁾ shall be null and void. [12]

Right of occupancy may be revoked for good cause.

12. It shall not be lawful for the Governor⁽¹⁾ to revoke a right of occupancy granted as aforesaid save for good cause. "Good cause" shall include :—

- (a) non-payment of rent, taxes, or other dues imposed upon the land ;
- (b) alienation by sale, mortgage, transfer of possession, sub-lease or by testamentary bequest or otherwise of any right of occupancy or part thereof contrary to the provisions of this Ordinance and the regulations thereunder ;
- (c) requirement of the land by the Government for public purposes ;
- (d) requirement of the land for mining purposes or for any purpose connected therewith ;
- (e) abandonment or non-use of the land for a period of two years :

Provided that when land is allowed to lie fallow for purposes of recuperation of the soil it shall not be held to have been abandoned ;

- (f) breach of the provisions of section 18 ; and
- (g) breach of any term contained in the certificate, or in any special contract under section 7. [13]

Acceptance of rent not to operate as a waiver of forfeiture.

13. The acceptance by or on behalf of the Governor of any rent shall not be held to operate as a waiver by the Governor of any forfeiture accruing by reason of the breach of any covenant or condition, express or implied, in any certificate of occupancy granted under this Ordinance or under any Proclamation repealed by this Ordinance. [13A]

(Inserted by No. 26 of 1938.)

Provisions as to surrender and compensation.

14. (1) If the rental demanded from an occupier be raised on revision, he may appeal to the Supreme Court, and such court, whose decision shall be final, may either reduce the revised rental, in which case no costs shall be payable, or it may confirm the revision, in which case the costs of the Supreme Court shall be paid by the occupier. If, however, he so prefer, instead of

⁽¹⁾ See Delegation of Powers in Public Notice No. 158 of 1944 as amended by No. 16 of 1948.

Land and Native Rights

appealing to the Supreme Court as aforesaid, he may appeal to the Governor who shall appoint as arbitrator such competent officer not responsible for the revision as he may see fit. Such arbitrator, whose decision shall be final, may either reduce the revised rental, in which case no costs shall be payable, or he may confirm the revision, in which case the costs of the arbitration as fixed by the arbitrator shall be paid by the occupier. If the occupier be dissatisfied with the decision of the court or of the arbitrator, as the case may be, he may surrender his right of occupancy, and the Governor⁽¹⁾ may award him such compensation for his unexhausted improvements as in his discretion he may think fit.

(2) Should a right of occupancy be revoked owing to the requirement of the land by the Government for public purposes, or for mining purposes, or for any purpose connected therewith, the occupier shall be entitled to compensation for the value at the date of revocation of his unexhausted improvements and for the inconvenience caused by his disturbance.

The compensation to be awarded shall, if not agreed upon by the Governor and the occupier, be determined by arbitration. (*Amended by No. 18 of 1918.*)

15. The devolution of the rights of an occupier upon death shall be regulated, in the case of a native, by the native custom existing in the locality in which the land is situated, and in the case of a non-native, by the English law governing the devolution of a lease for a term of years :

Devolution
of rights of
occupancy.

Provided that a right of occupancy shall not be divided into two or more parts on devolution by the death of the occupier, except with the sanction of the Governor.

16. In the case of the devolution or transfer of rights over land to which English law applies, no deed or will shall operate to create any proprietary right over land except that of a plain transfer of the whole of the rights of occupation over the whole of the land.

Effect of
will or deed
in cases of
devolution
or transfer.

17. (1) It shall be lawful for the Governor⁽²⁾ when granting a right of occupancy or when any person is in occupation of land under a right of occupancy or is entitled to a right of

Certificate of
occupancy.

⁽¹⁾ See Delegation of Powers in Public Notice No. 158 of 1944 as amended by No. 16 of 1948.

⁽²⁾ See Delegation of Powers in Public Notice No. 158 of 1944 as amended by Public Notice No. 213 of 1944.

Land and Native Rights

occupancy to issue a certificate thereof under his hand and to require the occupier to sign at the foot thereof an acceptance of the terms and conditions of such certificate. (*Amended by No. 22 of 1939.*)

Form A.

(2) Such certificate shall be termed a certificate of occupancy and shall be in the form set out in the First Schedule, or to the like effect, and there shall be paid therefor by the occupier such fee (if any) as may be prescribed. If the occupier shall, without lawful excuse, refuse or neglect to accept and pay for the certificate as aforesaid the Governor may revoke the right of occupancy.

(3) A person entitled to a right of occupancy may apply for a certificate which may be granted in the same manner and subject to the same conditions as in sub-section (1).

(4) The terms and conditions of a certificate of occupancy granted under this Ordinance or under the Proclamation⁽¹⁾ repealed by this Ordinance which has been accepted by an occupier, shall be enforceable against the occupier and his successors in title, notwithstanding that his acceptance of such terms and conditions is not evidenced by the signature of the occupier, or is evidenced by his signature only, or in the case of a corporation, by the signature only of some person purporting to accept on behalf of the corporation.

(Substituted as section 16 by No. 18 of 1918.)

Conditions implied.

18. (1) Every such certificate shall be deemed to contain provisions to the following effect :—

Compensation for damage.

(a) That the occupier binds himself to the Governor to pay compensation for any damage caused to native individuals or communities in the exercise of the rights granted to him, and to accept the ruling of the Governor as to the amount of such compensation ;

Liability for improvements.

(b) That the occupier binds himself to pay to the Governor the amount found to be payable in respect of any unexhausted improvements existing on the land at the date of his entering into occupation ;

Payment of rent.

(c) That the occupier binds himself to pay to the Governor the rent fixed by the Governor and any rent which may be fixed on revision in accordance with the provisions of this Ordinance.

⁽¹⁾ Laws of Northern Nigeria, Chapter 65.

Land and Native Rights

(2) Every such certificate heretofore made and issued, or made and issued hereafter shall be deemed to contain a provision that if for any reason the Governor considers it desirable to postpone the revision of the rent reserved under any such certificate, the Governor may postpone such revision for such time, irrespective of any revision period mentioned in such certificate, as he shall think fit, but should the right to revise be subsequently exercised the rent then fixed shall be payable for the remainder of the current revision period. (*Added by No. 3 of 1941.*)

Postponement of revision of rent.

19. In determining the rent to be demanded for any given land and on any subsequent revision of rent, the Governor shall take into consideration the rent obtained or obtainable in respect of any other like land in the immediate neighbourhood, and shall have regard to all the circumstances of the case :

Principles to be observed in fixing and revising rent.

Provided that in determining the amount of any rent, whether original or revised, the Governor shall not take into consideration any value due to capital expended upon the land by the same or any previous occupier during his term or terms of occupancy, or any increase in the value of the land the rental of which is under consideration, due to the employment of such capital.

(*Substituted by No. 23 of 1929.*)

20. The Governor⁽¹⁾ may grant a right of occupancy free of rent or at a reduced rent in any case in which the Governor shall be satisfied that it would be to the public interest so to do :

Exception to general rule as to best rents.

Provided, however, that unless otherwise expressly provided in the certificate of occupancy, there shall be reserved to the Governor, by virtue of this Ordinance, a right to impose a rent in respect of the land the subject of such right of occupancy if and when he may think proper.

(*Amended by No. 26 of 1938.*)

21. (1) If the right of the Governor to grant any right of occupancy over any land should be disputed, proceedings may be taken in the Supreme Court. (*Amended by No. 45 of 1933 and 23 of 1943.*)

Jurisdiction.

(2) All claims (whether against the Government or otherwise) arising under the provisions of this Ordinance in respect of any rights acquired under a right of occupancy shall be prosecuted before the Supreme Court or a magistrate's court. (*Substituted by No. 45 of 1933 as amended by 23 of 1943.*)

(¹) See Delegation of Powers in Public Notice No. 158 of 1944 as amended by Public Notices No. 222 of 1947 and No. 16 of 1948.

Land and Native Rights

(3) Proceedings for the recovery of any rents payable under this Ordinance may be taken by and in the name of any administrative officer or by and in the name of any other officer appointed by the Governor in that behalf in the Supreme Court or a magistrate's court. (*Amended by No. 45 of 1933 and 23 of 1943.*)

Saving
for existing
interests.

22. Nothing in this Ordinance shall be deemed to affect the validity of any title to land granted to a non-native or any interest therein acquired by such non-native before the 25th of February, 1916, in its application to the Northern Provinces, or the 4th of February, 1927, in its application to the Cameroons under British Mandate, but all such titles shall have the same effect and validity in all respects as though this Ordinance had not been enacted :

Provided always that, in its application to the Cameroons under British Mandate, such titles shall be proved to the satisfaction of the Governor before the 31st of December, 1930.

(*Amended by No. 1 of 1925 and 24 of 1929.*)

23. (1) Where it appears to the Governor that before the first day of March, 1916, a native had acquired or was in process of acquiring a valid title to land or to any interest therein the Governor may issue to such person, or to the person who appears to the Governor to be his successor in title, a grant of such title under his hand and the seal of the Protectorate for such consideration and subject to such conditions, if any, as the Governor may specify in the grant, and thereupon the title so granted shall have effect as if this Ordinance had not been enacted. [22A] (*Inserted by No. 47 of 1935.*)

(2) This section applies only to the Cameroons under British Mandate.

Occupier has
sole right to
any improve-
ments.

24. An occupier under a right of occupancy shall have the sole right to and absolute possession of any improvements effected by him on his land and at any time before the termination of his right of occupancy may remove any such improvements from the land :

Provided that where the occupier constructs any buildings, works or other improvements pursuant to the terms and conditions of any contract to which the grant of the right of occupancy is subject as provided in section 7, such buildings, works or other improvements shall not be removed, sold, leased,

Land and Native Rights

mortgaged or transferred in any manner whatsoever, without the consent of the Governor. [23]

(Substituted by No. 7 of 1942.)

25. (1) It shall be lawful for the Governor to grant a licence to any person to enter upon any land which is not the subject of a right of occupancy, or of a mining lease, mining right or exclusive prospecting licence granted under the Minerals Ordinance or of a lease or licence granted under the Mineral Oils Ordinance, and remove or extract therefrom any stone, gravel, clay, sand or other similar substance (not being a mineral within the meaning assigned to that term in the Minerals Ordinance) that may be required for building or for the manufacture of building materials.

Licences to take building materials.
Cap. 134.
Cap. 135.

(2) Any such licence may be granted for such period and subject to such conditions as the Governor may think proper or as may be prescribed.

(3) No such licence shall be granted in respect of an area exceeding one thousand two hundred acres.

(4) It shall not be lawful for any licensee to transfer his licence in any manner whatsoever without the consent of the Governor first had and obtained, and any such transfer effected without the consent of the Governor shall be null and void.

(5) The Governor may cancel any such licence if the licensee fails to comply with any of the conditions of the licence. [23A]
(Inserted by No. 33 of 1924 as amended by 23 of 1926.)

26. (1) It shall be lawful for the Governor to delegate to any native authority all or any of the powers conferred on the Governor by this Ordinance, subject to such restrictions, conditions and qualifications, not being inconsistent with the provisions of this Ordinance, as the Governor may specify.

Delegation to native authority of powers of Governor.

(2) Where under the preceding sub-section the power to grant certificates of occupancy has been delegated to a native authority such certificates shall be expressed to be granted on behalf of the Governor, and sub-section (1) of section 17 shall, for the purposes of such delegation, be read as if for the words "under his hand" therein were substituted the words "bearing the seal of the native authority".

Land and Native Rights

(3) No delegation under sub-section (1) to a native authority of any power shall affect the right of the Government to rents payable under this Ordinance. [23B]

(Inserted by No. 25 of 1933.)

Power to
make
regulations.

27. (1) The Governor may make regulations for the purpose of carrying this Ordinance into effect, and particularly with regard to the following matters :—

- (a) regulating the transfer by sale or otherwise of rights of occupancy ;
- (b) the terms and conditions upon which special contracts may be made under section 7 ;
- (c) the grant of certificates of occupancy under section 17 ;
- (d) the terms and conditions upon which licences may be granted under section 25 ; *(Added by No. 33 of 1924.)*
- (e) the procedure to be observed in revising rents ;
- (f) the survey and demarcation of areas the subject of rights of occupancy, and the maintenance of boundary marks ; and
- (g) the fees to be paid for any matter or thing done under this Ordinance.

Third
Schedule.

(2) The regulations contained in the Third Schedule shall have effect simultaneously with this Ordinance :

Provided that the Governor may alter, amend, add to, or revoke, any such regulations from time to time as he may see fit. [24]

Application
for wayleave
licence and
permit to
survey.
Cap. 58.

28. (1) Any person duly authorised to erect, construct and or maintain electricity works under the provisions of the Electricity Ordinance, or any person desiring to obtain power from such works, may apply to a Chief Commissioner for a wayleave licence to enable him to exercise or continue to exercise the powers obtained under the provisions of the said Ordinance, or to obtain such power.

Form B.

(2) A wayleave licence may be substantially in the form set out in the First Schedule hereto.

(3) Pending the determination of an application for a wayleave licence a Chief Commissioner may, when necessary, grant a permit to survey to enable the applicant, his servants and agents to enter upon the lands described in the Schedule to such permit and there to survey and take levels and do all acts necessary to enable the applicant to prepare a plan to show the lands over which a wayleave licence is sought :

Land and Native Rights

Provided that nothing in this section contained shall be deemed to authorise any person to cut down or remove any fence or other erection or to enter any building or upon any enclosure attached to any building. [24A]

(Added by No. 14 of 1943.)

29. (1) An applicant for a wayleave licence shall serve upon the Chief Commissioner concerned a request for the grant of a wayleave licence together with a plan showing the position of the proposed electricity works in relation with the area over which the wayleave licence is sought and showing also the relation of the proposed electricity works to any existing electricity works together with such other information as may be necessary to define the proposed electricity works and the lands to be affected thereby.

Method of application for a wayleave licence.

(2) If a permit to survey is not required or when such survey has been completed the applicant shall serve a notice upon—

- (a) holders of exclusive prospecting licences ;
- (b) holders of mining rights ;
- (c) lessees of mining leases ;
- (d) holders of certificates of occupancy ;
- (e) persons operating under prior permission to mine ; and
- (f) divisional officers,

in the area which would be affected by the grant of such wayleave licence.

(3) Such notice shall contain a description of the nature and position of the particular electricity works proposed to be placed, constructed or laid down therein or thereon, or of the alterations proposed to be effected as the case may be, and shall also at the same time state the place at which and the hours during which there may be inspected a plan showing how the proposed electricity works will traverse or otherwise adversely affect the use of the respective areas covered by the said exclusive prospecting licences, mining rights, mining leases or certificates of occupancy, or operated by a person under prior permission to mine.

(4) Each divisional officer shall communicate the contents of the notice served upon him to the occupiers of land, other than the persons set out in paragraphs (a), (b), (c), (d) and (e) of sub-section (2) which will be traversed or otherwise adversely affected by the proposed wayleave licence.

Land and Native Rights

(5) Such notice shall contain the time within which objections to the proposed wayleave shall be made and the date, time and place of the hearing of such objections both to be fixed by the Chief Commissioner concerned. [24B]

(Added by No. 14 of 1943.)

Objectors
and grant of
wayleave
licence where
no objection
made.

30. (1) Any of the persons set out in paragraphs (a), (b), (c), (d) and (e) of sub-section (2) of section 29 may, within the time fixed in the notice served under the provisions of that section, lodge his objection together with the reasons therefor in writing at the office of the Chief Commissioner concerned.

(2) Any of the persons set out in sub-section (4) of section 29 may within the time stated in the notice served on the divisional officer concerned lodge objections either verbally or in writing with such divisional officer.

(3) If no objection is lodged by any person entitled to so object within the time so limited for that purpose the Chief Commissioner may grant to the applicant a wayleave licence either unconditionally or subject to such terms, stipulations or conditions as he may deem expedient. [24c]

(Added by No. 14 of 1943.)

Procedure
where
objection
made to be
by inquiry.

31. (1) If an objection is lodged and not withdrawn before the date fixed for the hearing of objections the Chief Commissioner concerned shall hold an inquiry giving all parties concerned an opportunity to be heard :

Provided that the Chief Commissioner may, instead of holding such inquiry himself, direct an officer of Government to hold such inquiry on his behalf and to make recommendations to him.

(2) Upon the conclusion of any such inquiry or upon receipt of such recommendations the Chief Commissioner concerned may grant to the applicant a wayleave licence either unconditionally or subject to such terms, stipulations or conditions as he may deem expedient.

Expenses.

(3) Where an inquiry has been held the Chief Commissioner may direct that any party to such inquiry shall pay the necessary expenses incurred by all or any of the other parties to such inquiry and shall fix the amount so to be paid. [24D]

(Added by No. 14 of 1943.)

Land and Native Rights

32. (1) Subject to the provisions hereinafter provided a wayleave licence shall, subject to the terms, stipulations and conditions therein contained, entitle the licensee with all necessary workmen, servants and agents to enter on the land the subject of such wayleave licence for the purpose of placing, constructing or laying down electricity works and thereafter at any time so to enter for the purpose of examining, maintaining, repairing or removing such electricity works.

Powers conferred by a wayleave licence and application of Chapter 58.

(2) In the exercise of the powers granted under a wayleave licence and this Ordinance it shall be the duty of the person exercising such power, his servants and agents, to observe and perform all the relevant provisions of the Electricity Ordinance. [24E] (Added by No. 14 of 1943.)

Cap. 58.

33. (1) In the exercise of the powers granted under a permit to survey or a wayleave licence the holder of the permit or the licensee, as the case may be, shall do no unnecessary damage and shall pay compensation for any damage done.

Compensation for damage.

(2) Where a dispute arises as to the amount of compensation payable such amount shall be determined by a magistrate exercising jurisdiction in the area concerned and such decision shall be final. [24F] (Added by No. 14 of 1943.)

34. The Governor⁽¹⁾ may at any time after due inquiry either revoke a wayleave licence granted under the provisions of section 30 or 31 or require the licensee to remove or alter the position of any electricity works either unconditionally or on such terms and conditions as he may deem expedient. [24G]

Power to Governor to revoke or impose conditions.

(Added by No. 14 of 1943.)

35. (1) Where electricity works have been placed, constructed or laid down under this Ordinance a divisional officer may prohibit the erection of any building or shelter or the cultivation of any land within a distance of twenty feet from, or the carrying on of any mining operations whatsoever within one hundred feet of, any specified part of any such electricity works.

Precautionary provisions.

(2) Where the said works consist of aerial lines the prohibition may be made to apply to that portion of the land to which it would have applied had the lines instead of being aerial lines

(1) See Delegation of Powers in Public Notice No. 158 of 1944.

Land and Native Rights

been lines placed on the surface of the ground immediately below the said aerial lines. [24H]

(Added by No. 14 of 1943.)

Power to allow deviations.

36. Where a wayleave licence has been granted and minor deviations become necessary a Chief Commissioner may permit the parties affected by such proposed deviation to reach agreement with the licensee as to such deviation :

Provided that notice of any such proposed deviation and the agreement reached in respect thereof shall be given to the divisional officer concerned before work is commenced on such deviation and a new plan is submitted in duplicate in substitution of the plan affected by such deviation. [24I]

(Added by No. 14 of 1943.)

Definition.

37. For the purposes of sections 28 to 36 inclusive—
“electricity works” includes the placing, constructing or laying down aerial or other electric distribution mains and installations, supply lines, service lines, or other works connected therewith and any installation or work authorised under the Electricity Ordinance. [24J]

Cap. 58.

(Added by No. 14 of 1943.)

Repeal of Laws of Northern Nigeria Chapter 65.

38. The Land and Native Rights Proclamation is hereby repealed :

Provided that such repeal shall not affect any certificate of occupancy granted under the said Proclamation, which certifies and the rights thereby conferred and the obligations thereby imposed shall continue to be governed by the said Proclamation as if this Ordinance had not been made. [25]

FIRST SCHEDULE

Section 17.

FORM A

Protectorate of Nigeria

THE LAND AND NATIVE RIGHTS ORDINANCE

(Chapter 105)

Certificate of Occupancy

Certificate of Occupancy.

(Date)

(Volume and page of register).

This is to certify that A.B. of _____ is entitled to a right of occupancy in and over the land described in the schedule, and

Land and Native Rights

FIRST SCHEDULE—FORM A—continued

more particularly delineated in the plan annexed hereto (*for a term of years from the date hereof) according to the true intent and meaning of the said Ordinance and subject to the provisions thereof and to the following special terms and conditions :—

*Omit where no term specified.

- 1. (Commencing rent).
2. (Term of revision).
3. (Etc., etc., etc.).

GIVEN under my hand the day and year above written.

(Signed).....
Governor.

FORM B

(Added by No. 14 of 1943)

Section 27(2).

THE LAND AND NATIVE RIGHTS ORDINANCE
(Chapter 105)
Wayleave Licence

Volume No..... Licence No.....

Licence is hereby granted to his
of.....and — workmen, servants or
their

agents to enter upon the lands described in the plans referred to in the schedule hereto and filed in the Survey Office for the area concerned, Northern District, for the purpose of erecting, constructing and maintaining aerial or other electrical distribution mains, supply lines, or other works connected therewith in or over the said land and to exercise all the powers and rights conferred by sections 28 to 37 of the Land and Native Rights Ordinance subject to the provisions of these sections and the terms and/or conditions set out on the back hereof and subject to the provisions of the Electricity Ordinance and of the regulations made thereunder

Cap. 105.

Cap. 58.

DATED this day of , 19 .

Chief Commissioner.

SCHEDULE

Original Plans

Substituted Plans

Plan No.....

Plan No.....replacing plan No....

CONDITIONS

1. The licensee shall not transfer this licence without the consent of the Chief Commissioner first had and obtained.

2. This licence does not entitle the licensee to cut down or destroy any protected trees as defined by the Forestry Ordinance except with the

Cap. 75.

*Land and Native Rights*FIRST SCHEDULE—FORM B—*continued*

consent of the proper Forestry Officer and on payment of the fees and royalties prescribed by the law for the time being regulating the cutting and destruction of such trees.

3. This licence shall be produced by the licensee whenever demanded by any officer of the Mines or Survey Department or by any administrative officer.

4. This licence shall be duly filed by the licensee in the Land Registry Office.

Section 2.

SECOND SCHEDULE

This is to certify that A.B., having declared his intention of making the Northern Provinces (or the Cameroons under British Mandate, *as the case may be*) his permanent domicile, and having satisfied me that he has obtained the consent of the native communities concerned, is entitled to the rights and privileges preserved to or conferred upon the natives of the Northern Provinces of the Protectorate (or the Cameroons under British Mandate, *as the case may be*) by the Land and Native Rights Ordinance.

Cap. 105.

DATED this _____ day of _____ 19. _____

Governor.

Section 27.

THIRD SCHEDULE

*(Amended by Reg. No. 21 of 1921.)**Regulations under section 27*

1. It shall not be lawful for any native holding a certificate of occupancy to sell, transfer possession, bequeath or otherwise alienate his title to a non-native except with the consent of the Governor.⁽¹⁾

2. Subject to any native law or custom to the contrary, an occupier being a native may sell, transfer possession or bequeath his title to a blood relation being a native :

Provided that the transaction shall be null and void unless the change of title is duly registered within a period of six months.

3. Subject to any native law or custom to the contrary, an occupier being a native may sell, transfer possession or bequeath his title to any other native permanently resident in the same district, with the consent of the district headman and the approval of the head chief, subject to registration.

4. An occupier being a native may sell, transfer possession or bequeath his title to a native not resident in the district only with the consent of the head chief, and the approval of the Resident, subject to registration.

5. If the district headman under regulation 3 refuses consent, an occupier may appeal to the native court, and if the head chief refuses consent under regulation 4 he may appeal to the Supreme Court.

(1) See Delegation of Powers in Public Notice No. 158 of 1944.

Land and Native Rights

FOURTH SCHEDULE⁽¹⁾

Section 3.

(Added by No. 9 of 1938)

Item No.	Description of Property	Date of Deed	Registration particulars of Deed
1	Munyange Estate	23rd March, 1914	No. 28, page 28, Volume 266.
2	Plot of land on the Buea-Soppo main road at Buca.	2nd April, 1928	No. 34, page 106, Volume 9 (Calabar).
3	Ambas Island	2nd November, 1927.	No. 36, page 114, Volume 9 (Calabar).
4	(i) Plot on the left bank of the Cross River at Mamfe. (ii) Plot on Mfi River at Tali. (iii) Plot on the left bank of the Cross River at Nsanakang.	26th September, 1929.	No. 33, page 33, Volume 272.
5	Kumbe Estate	11th October, 1928.	No. 1, page 1, Volume 10A (Calabar).
6	Kitta Factory Site	11th October, 1928.	No. 2, page 2, Volume 10A (Calabar).
7	Iloani Estate	3rd December, 1928.	No. 3, page 3, Volume 10A (Calabar).
8	Likume (or Dikume) Estate	11th October, 1928.	No. 4, page 4, Volume 10A (Calabar).
9	Balundu-Ba-Boa Estate	11th October, 1928.	No. 5, page 5, Volume 10A (Calabar).
10	Ekundu-Ndene Estate	3rd December, 1928.	No. 6, page 6, Volume 10A (Calabar).
11	Bonjarri Estate	11th October, 1928.	No. 7, page 7, Volume 10A (Calabar).
12	Matuttu Factory Site	11th October, 1928.	No. 8, page 8, Volume 10A (Calabar).
13	Bungo (or Mbongo) Estate	11th October, 1928.	No. 9, page 9, Volume 10A (Calabar).
14	Bonge-Malomba Factory Site	11th October, 1928.	No. 10, page 10, Volume 10A (Calabar).
15	Kumba Factory Site	11th October, 1928.	No. 11, page 11, Volume 10A (Calabar).
16	Ekundu-Etitti Estate	11th October, 1928.	No. 12, page 12, Volume 10A (Calabar).
17	Bavo-Bonge Estate	2nd December, 1929.	No. 27, page 63, Volume 10 (Calabar).
18	Etoki Estate and Factory Land	1st May, 1930..	No. 13, page 13, Volume 10A (Calabar).
19	The African Fruit Company's Estate	2nd March, 1929	No. 14, page 14, Volume 10A (Calabar).
20	Baji Estate and Factory Land	26th May, 1930	No. 15, page 15, Volume 10A (Calabar).
21	Mongonge Estate	3rd October, 1930.	No. 16, page 16, Volume 10A (Calabar).

(¹) This Schedule, which was the Third Schedule to Ordinance No. 1 of 1925 (as amended by No. 9 of 1938), has been incorporated as the Fourth Schedule to Chapter 105; it relates to section 3 (1) (a) of the Land and Native Rights Ordinance [formerly modification (5) (a) appearing in the third column of the First Schedule to No. 1 of 1925, but now incorporated in Chapter 105]. The preamble to Ordinance No. 9 of 1938 explained the reason for the amendments made.

In all cases the volumes are now kept in the Registry Office at Lagos. Where the word "Calabar" is shown after the number of a volume it indicates that the volume in question was formerly in the Registry Office at Calabar which office has now been closed down.

Land and Native Rights

FOURTH SCHEDULE—continued

Item No.	Description of Property	Date of Deed	Registration particulars of Deed
22	Plot of land situate at Rio Del Rey and bounded on the south by Atakpa Creek and on the west partly by Rio Creek and partly by Crown land.	9th December, 1930.	No. 17, page 17, Volume 10A (Calabar).
23	Plot of land situate on the north shore of Isangelle Creek at Oron.	20th December, 1930.	No. 18, page 18, Volume 10A (Calabar).
24	Ombe Estate	4th December, 1929.	No. 19, page 19, Volume 10A (Calabar).
25	Mondemba (or Mundimba) Estate ..	16th March, 1931.	No. 20, page 20, Volume 10A (Calabar).
26	Missellele Estate	31st April, 1931	No. 23, page 23, Volume 10A (Calabar).
27	Malende Estate	24th April, 1931.	No. 24, page 24, Volume 10A (Calabar).
28	Plot of land situate near the main road from Buea to Victoria at Buea.	13th May, 1931	No. 26, page 26, Volume 10A (Calabar).
29	Plot of land situate near the main road from Buea to Victoria at Buea.	15th May, 1931	No. 27, page 27, Volume 10A (Calabar).
30	Ekona-Mpundu Estate	21st February, 1930.	No. 28, page 28, Volume 10A (Calabar).
31	Ndian Estate	7th June, 1931.	No. 29, page 29, Volume 10A (Calabar).
32	Two plots of land situate on opposite sides of Sapper Road at Victoria.	18th March, 1931.	No. 30, page 30, Volume 10A (Calabar).
33	Plot of land situate on the west side of the Buea-Soppo Road at Buea.	24th February, 1931.	No. 31, page 31, Volume 10A (Calabar).
34	Plot of land situate on Bwenga Beach, Victoria.	31st July, 1931.	No. 33, page 33, Volume 10A (Calabar).
35	Mussunguseli Estate	21st July, 1931.	No. 34, page 34, Volume 10A (Calabar).
36	Plot of land situate on the south-east side of Black Watch Road at Victoria.	29th June, 1931.	No. 36, page 36, Volume 10A (Calabar).
37	Two plots of land situate on the main road from Mundame to Johann Abrechtshohe at Kumba.	13th January, 1932.	No. 39, page 39, Volume 10A (Calabar).
38	Kassa Estate	23rd March, 1932.	No. 40, page 40, Volume 10A (Calabar).
39	Manamani Estate	2nd May, 1932.	No. 42, page 42, Volume 10A (Calabar).
40	Two plots of land at Tiko known as Plots Nos. 5 and 14.	4th January, 1933.	No. 1, page 1, Volume 352.
41	Plot of land at Bimbia bounded on the east by the Atlantic Ocean and on the west by Mombomendene Stream.	6th February, 1933.	No. 7, page 7, Volume 352.
42	Ndobe (or Lobe) Estate	21st March, 1932.	No. 8, page 8, Volume 352.
43	The Holtforth, Rohricht and Steinhansen Estates.	19th May, 1933.	No. 14, page 14, Volume 352.
44	Oschelhausen Estate	16th July, 1933.	No. 18, page 18, Volume 352.
45	Iuka Estate	16th July, 1933.	No. 20, page 20, Volume 352.
46	Plot of land situate on the left bank of the Meme River at Ekumbe Lionge.	14th October, 1933.	No. 23, page 23, Volume 352.
47	Meanja Estate	2nd November, 1933.	No. 24, page 24, Volume 352.

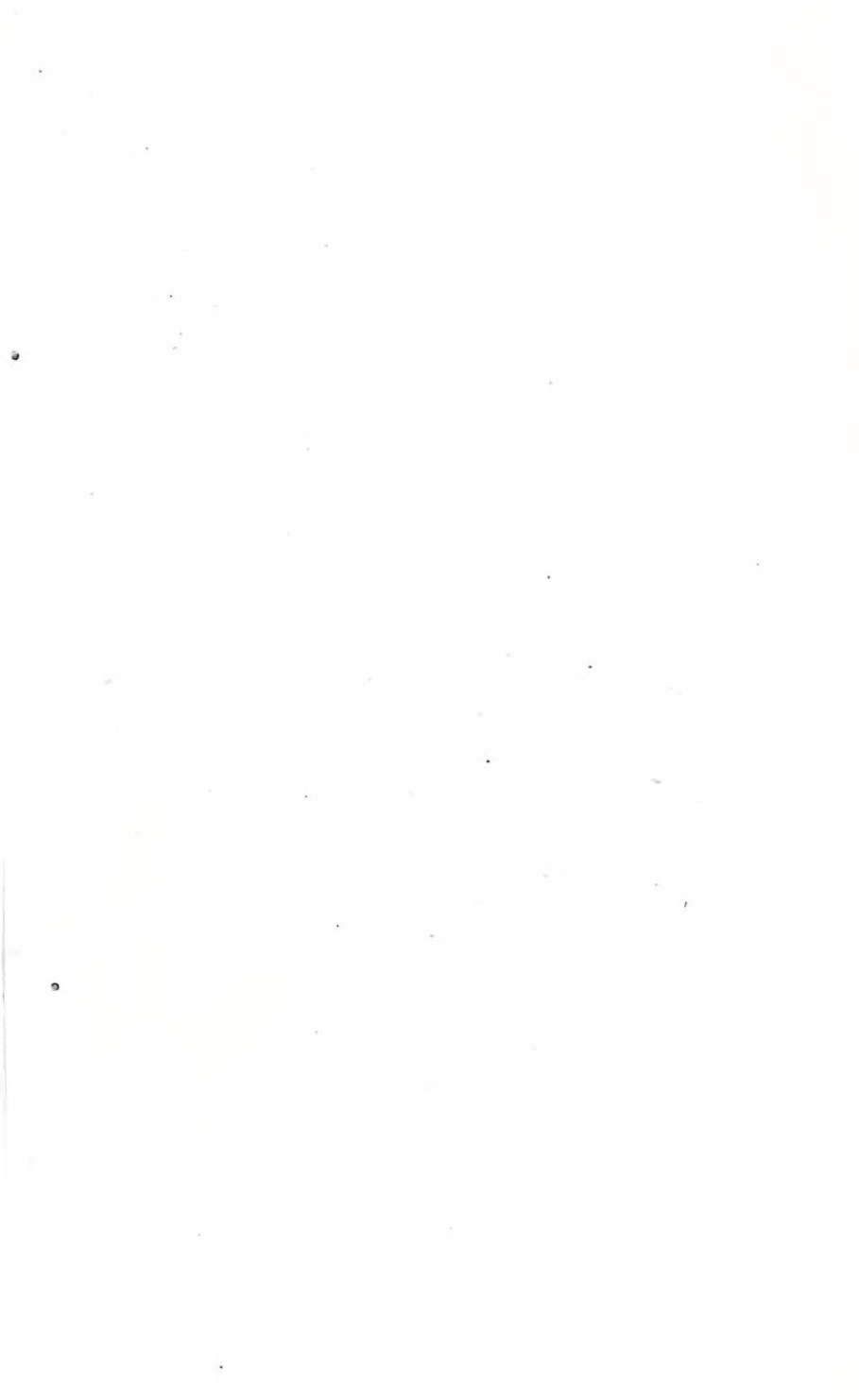
*Land and Native Rights*FOURTH SCHEDULE—*continued*

Item No.	Description of Property	Date of Deed	Registration particulars of Deed
48	Bimbia-Tiko Estates	21st November, 1933.	No. 25, page 25, Volume 352.
49	Idenau Estate	3rd October, 1933.	No. 27, page 27, Volume 352.
50	The Eisenbahn Tobacco Lands ..	29th November, 1933.	No. 29, page 29, Volume 352.
51	Plot of land situate on the Atlantic Coast at Bimbia, Victoria, and bounded on the north-east by the Mombo Monden Stream.	18th December, 1933.	No. 31, page 31, Volume 352.
52	Bibundi Estate	26th March, 1934.	No. 38, page 38, Volume 352.
53	Essasong Estate	13th May, 1935.	No. 1, page 1, Volume 407.
54	The Bakossi Syndicate Lands ..	15th May, 1935.	No. 2, page 2, Volume 407.
55	Debundscha Estate	13th November, 1934.	No. 4, page 4, Volume 407.
56	Moliwe Estate	9th July, 1935.	No. 7, page 7, Volume 407.
57	Victoria Molyki Estate	1st May, 1930.	No. 26, page 26, Volume 407.
58	Mukonje Estate	3rd October, 1935. 25th March, 1925.	No. 8, page 8, Volume 407. No. 85, page 144, Volume 7 (Calabar).
59	Plot of land at Buea abutting the main road from Buea to Molyko.	14th February, 1923.	No. 38, page 38, Volume 407.
60	Plot of land at Victoria abutting the main road from Victoria to Buea.	13th November, 1941.	No. 44, page 44, Volume 407.
61	Plot of land at Victoria abutting the main road from Victoria to Buea.	13th November, 1941.	No. 45, page 45, Volume 407.
62	Plot of land at Mokundange Harbour.	13th November, 1941.	No. 46, page 46, Volume 407.
63	Plot of land at Mokundange	13th November, 1941.	No. 47, page 47, Volume 407.
64	Plot of land at Ngeme	13th November, 1941.	No. 48, page 48, Volume 407.
65	Plot of land at Onge River, Bibundi. . .	13th November, 1941.	No. 49, page 49, Volume 407.
66	Plot of land at Victoria abutting the main road from Victoria to Buea.	13th November, 1941.	No. 50, page 50, Volume 407.
67	Plot of land at Victoria abutting the main road from Victoria to Buea.	13th November, 1941.	No. 51, page 51, Volume 407.
68	Plot of land abutting Market Lane, Victoria.	13th November, 1941.	No. 52, page 52, Volume 407.
69	Plot of land abutting Royal Scots Avenue, Victoria.	13th November, 1941.	No. 53, page 53, Volume 407.
70	Two plots of land at Victoria abutting the main road from Victoria to Buea.	13th November, 1941.	No. 54, page 54, Volume 407.
71	Plot of land abutting Sapper Road, Victoria.	13th November, 1941.	No. 1, page 1, Volume 593.
72	Plot of land abutting Suffolk Avenue, Victoria.	13th November, 1941.	No. 2, page 2, Volume 593.
73	Plot of land abutting Suffolk Avenue, Victoria.	13th November, 1941.	No. 3, page 3, Volume 593.
74	Plot of land at Bota	13th November, 1941.	No. 4, page 4, Volume 593.

*Land and Native Rights*FOURTH SCHEDULE—*continued*

Item No.	Description of Property	Date of Deed	Registration particulars of Deed
57	Plot of land abutting Essuke River at Swenga.	13th November, 1941.	No. 5, page 5, Volume 593.
58	Soomuller or Lucky Island (Subject to Survey).	13th November, 1941.	No. 6, page 6, Volume 593.
59	Plot of land at Ekumbe Lionge.	13th November, 1941.	No. 7, page 7, Volume 593.
60	Plot of land at Tiko	13th November, 1941.	No. 8, page 8, Volume 593.
61	Plot of land abutting Devonshire Avenue, Victoria.	13th November, 1941.	No. 9, page 9, Volume 593.
62	Plot of land abutting Suffolk Avenue, Victoria.	13th November, 1941.	No. 10, page 10, Volume 593.
63	Plot of land at Bwenga Beach, Tiko ..	13th November, 1941.	No. 11, page 11, Volume 593.
64	Plot of land abutting Market Lane, Victoria.	2nd November, 1942.	No. 12, page 12, Volume 593.
65	Neel Island (Subject to Survey) ..	31st January, 1923.	No. 1, page 202, Volume 9 (Calabar).
66	Plot of land at Buea abutting the road from Buea to Victoria.	24th September, 1942.	No. 6, page 6, Volume 580.

(Items 57 to 84 inclusive added by Order in Council 24 of 1944.)





Colony and Protectorate of Nigeria—1948 Revision

CHAPTER 105

LAND AND NATIVE RIGHTS

(Protectorate)

NOTICE UNDER SECTION 2 OF THE LAND AND NATIVE RIGHTS ORDINANCE.

Notice is hereby given that the Governor-General has, with the consent of the Secretary of State, directed that those parts of the Southern Provinces which have been transferred to the Northern Provinces by the readjustment of the boundaries notified in this Gazette, shall be included in the Northern Provinces for the purposes of the Land and Native Rights Ordinance.

Notice
81 of 1918
(9th May)

REGULATIONS UNDER SECTION 27 OF THE LAND AND NATIVE RIGHTS ORDINANCE.

1. These regulations shall apply to native reservations in townships in the Northern Provinces.
2. The regulations in the Third Schedule to the Land and Native Rights Ordinance shall not apply to lands in such reservations.
3. In these regulations the term "native" has the meaning assigned to that term by the Interpretation Ordinance.
4. The local authority may cause any portion of a native reservation which is not required for public purposes to be divided into plots suitable for occupation by natives for business or residential purposes.
5. A right to occupy any such plot may be sold by auction and shall be subject to the conditions set out in regulations 13 and 14. (*Substituted by 13 of 1929.*)
6. The Chief Commissioner may direct the local authority to sell by auction a right to occupy any of such plots, having first determined the minimum rent to be paid and the building conditions (if any) to be complied with by the occupier.

Regulations
8 of 1918⁽¹⁾
(28th Feb.)
13 of 1929.

Cap. 94.

(¹) See Regulations 38 of 1940. Regulations under section 27 are also contained in the Third Schedule to the Ordinance.

Land and Native Rights

7. The place and time of sale shall be notified by the local authority in the Gazette not less than four weeks prior to the day of sale, and the notice shall state—

- (a) the number of plots and the situation and area of each plot ;
- (b) the minimum rent to be paid in respect of each plot ;
- (c) the building conditions (if any) to be complied with by the occupier ; and -
- (d) that the right of occupancy will be granted subject to the provisions of regulations 13 and 14 and that natives only may purchase the right of occupancy :

Provided that any plot may be withdrawn from sale by the Chief Commissioner at any time prior to the same being offered for sale.

8. The auction shall be conducted by the local authority who shall, before the commencement of the sale, read the terms and conditions of the sale (including the provisions of regulations 13 and 14), and all persons bidding at the sale shall be bound by the terms and conditions read.

9. The native who shall offer the highest rent for a plot shall be the purchaser of the right to occupy such plot and shall be entitled to be entered in the book hereafter mentioned as the registered occupier, provided that he shall forthwith pay to the local authority the proportion of the annual rent payable for the period from the date of the sale until 31st December next following. In default of such payment the right to occupy the plot may again be offered for sale, and any subsequent bid by the person who has made default may be ignored or refused.

10. The local authority shall keep a book in which he shall forthwith register—

- (a) the date of the sale of the right to occupy the plot ;
- (b) the name of the purchaser ;
- (c) the number or other sufficient description of the plot ;
- (d) the rent to be paid ;
- (e) the building conditions (if any) to be complied with by the occupier.

11. Whenever the Governor shall authorise the grant, without auction, of a right to occupy a plot in a native reservation, subject to the conditions prescribed in regulations 13 and 14, the local

Land and Native Rights

authority shall register such right in the manner prescribed by regulation 10, but shall enter in the book the date on which the right of occupancy is granted in lieu of the date of sale.

12. (1) The local authority shall, if so required by the registered occupier of a plot and on payment of a fee of one shilling, issue to the occupier a certificate in the Form in the Schedule. Schedule.

(2) On the transfer or termination of the right of occupancy the holder of the certificate shall produce the same to the local authority for cancellation, and in default of so doing shall be liable to a fine of ten shillings.

13. Every right of occupancy registered under these regulations shall be subject to the following conditions :—

- (a) The right of occupancy shall commence on the day on which the same is sold or granted and shall continue for one year and thenceforward until the expiration of any three months' notice of the determination of the right, given either by the local authority to the occupier or by the occupier to the local authority.
- (b) The annual rent shall be payable in advance without demand at the office of the local authority on the 1st January in each year.
- (c) The occupier shall comply with the building conditions attached to the right.
- (d) The occupier shall at all times during the continuance of the right—
 - (i) keep the plot and the buildings thereon in a clean and sanitary condition to the satisfaction of the local authority ;
 - (ii) maintain the boundary marks of the plot in substantial repair ; and
 - (iii) allow free access to the plot and the buildings thereon to the local authority or any person authorised by him to enter and view the same.
- (e) If the occupier fails to pay his rent when the same is due or fails to comply with any of the conditions of the right of occupancy, the local authority may, with the consent of the Resident of the province, by notice to the occupier, declare the right of occupancy to be determined, and thereupon all rights of the occupier and of any person claiming through him in respect of the land and buildings thereon shall forthwith determine.

Land and Native Rights

- (f) (i) Subject to the last preceding condition, all buildings on the plot shall be the property of the occupier and may be removed by him at any time during the continuance of the right of occupancy :

Provided that the occupier shall make good any damage done to the plot by such removal ;

(ii) any building remaining on the plot after the determination of the right of occupancy shall become the property of the Governor.

- (g) When the right of occupancy has been determined by the local authority under paragraph (a) before the end of December in any year, the occupier shall be entitled to a refund of the rent paid in respect of the unexpired portion of such year.
- (h) Save as provided in regulation 14 the right of occupancy shall not be transferred.

14. If an occupier under these regulations desires to transfer his right of occupancy, he and the intending transferee shall attend at the office of the local authority, and the local authority, if satisfied that there are no objections to the transfer and that the intending transferee understands the conditions on which the right is held, may, with the consent of the Resident of the province, approve the transfer, which shall be effected by a note of the transfer and the date thereof being entered by the local authority against the entry relating to such right of occupancy in the book mentioned in regulation 10.

15. In the event of the death of a registered occupier the person on whom the right of occupancy shall devolve shall attend at the office of the local authority to be registered as the occupier of the plot. If within three months of the death of the occupier no person shall attend as aforesaid and satisfy the local authority that he is entitled to be registered as the occupier, the right of occupancy shall determine, unless the Chief Commissioner shall otherwise order.

16. Any notice to be given to an occupier under these rules may be given either verbally or in writing or by posting the notice on the land.

17. Nothing in these regulations shall be deemed to prohibit the Governor from granting a right of occupancy in a native reservation on any terms and conditions which he may think proper.

Land and Native Rights

[Sec. 27

SCHEDULE

This is to certify that was on the day of, 19...., registered as the occupier of plot No..... in the native reservation of the township of in accordance with the provisions of regulation No. of made under the Land and Native Rights Ordinance. Cap. 105.
Rent £..... Building conditions

Dated this day of, 19.....

.....
Local Authority.

LAND AND NATIVE RIGHTS (BUILDING MATERIALS)

1. These regulations may be cited as the Land and Native Rights (Building Materials) Regulations. *Regulations 7 of 1925 (5th Feb.) 23 of 1925.*

2. Applications for licences under section 25 of the Ordinance shall be made to the Secretary, Northern Provinces, and shall be in the Form A in the Schedule. Form A.

3. The area in respect of which application is made must be rectilinear in shape and at least one acre in extent.
(Amended by 23 of 1925.)

4. A licence under section 25 of the Ordinance shall be in Form B in the Schedule. Form B.

5. It shall be a condition of the grant of a licence that an annual rent of one shilling per acre shall be paid in respect of the land in respect of which the licence is granted. Such rent shall be payable annually in advance without demand and shall be paid to the Treasury Officer at Kaduna and shall be in addition to any royalties or to any surface rent.

6. The Governor may make it a further condition of the grant of any licence that such surface rent as he may decide in each case shall be paid in like manner as the above-mentioned annual rent.

7. It shall be a condition of the grant of a licence that any royalties which may be imposed by further regulations in respect of any material authorised to be removed or extracted under the licence shall be paid.

Land and Native Rights

8. It shall be a condition of the grant of a licence that the licensee shall within six months of the date of the licence, or within such further time (if any) as the Chief Commissioner, Northern Provinces, may by writing under his hand allow, commence operations on the area and thereafter during the period of the licence, unless prevented by local disturbances or unavoidable accident, continuously, vigorously and effectually carry on operations on the said area.

9. It shall be a condition of the grant of a licence that the licensee, if not resident in Nigeria and in charge of the operations on the area, shall at all times have a responsible agent resident in Nigeria, and in charge of the operations, and shall forthwith notify the Secretary, Northern Provinces, in writing of every appointment and change in the appointment of such agent.

10. No licence shall entitle the licensee to cut down or destroy any protected trees except with the consent of the proper forestry officer and on payment of the fees and royalties prescribed by the law for the time being regulating the cutting of such trees.

11. It shall be a condition of the grant of a licence that the licensee shall produce his licence whenever demanded by any officer of the Mines or Survey Department or by any administrative officer.

12. Every licence shall be duly registered by the licensee under the provisions of the Land Registration Ordinance.

13. The grant of any licence shall be subject to such further conditions as may be imposed by the Governor.

SCHEDULE

FORM A

The Land and Native Rights Ordinance

LAND AND NATIVE RIGHTS (BUILDING MATERIALS) REGULATIONS

APPLICATION FOR A LICENCE TO REMOVE BUILDING MATERIALS

To the Secretary, Northern Provinces, Kaduna.

Number of application (to be filled in by Secretary)

Full name of applicant

Nationality of applicant

Address of applicant

Description of the land in respect of which a licence is applied for

.....

*Land and Native Rights*SCHEDULE—FORM A—*continued*

Area of the land

Period for which the licence is applied for

Substances for the removal of which licence is applied for

Approximate quantity of material which it is intended to remove under the licence, if granted

Purpose for which the material removed is intended to be used

I hereby apply for a licence to enter upon the above-described land and to remove building materials therefrom and I declare that the particulars hereinabove set out are correct and that to the best of my knowledge and belief no part of the said land is the subject of a right of occupancy or a grant made to a native in accordance with native law and custom, or of a mining lease, mining right or exclusive prospecting licence granted under the Minerals Ordinance, or of a lease or licence granted under the Mineral Oils Ordinance.

Cap. 134.
Cap. 135.

Dated this day of, 19....

Applicant.

FORM B

The Land and Native Rights Ordinance

Reg. 4.
Cap. 105.

LAND AND NATIVE RIGHTS (BUILDING MATERIALS) REGULATIONS

7 of 1925.

LICENCE TO REMOVE BUILDING MATERIALS

Licence, subject to the provisions of the Land and Native Rights Ordinance and of the regulations thereunder now in force or which may come into force during the period for which this licence is granted, is hereby granted to of to enter the land described below and to remove and/or extract therefrom stone and/or gravel and/or clay and/or sand and/or for a period of years from the date hereof subject to the conditions set out on the back hereof.

Dated this day of, 19....

Governor.

Land in respect of which this licence is granted

(insert area and description)

CONDITIONS

(To be printed on the back of the licence)

1. The licensee shall pay annually in advance without demand to the Treasury Officer at Kaduna the annual rent due, namely :—£.....

*Land and Native Rights*SCHEDULE—FORM B—*continued*

*2. The licensee shall pay annually in advance without demand to the Treasury Officer at Kaduna the surface rent, namely:—£.....

3. The licensee shall pay all such royalties as may be due and payable in respect of all stone and/or gravel and/or clay and/or sand and/or removed and/or extracted by him.

4. The licensee shall not transfer this licence without the consent of the Governor first had and obtained.

5. The licensee shall within six months of the date of the licence, or within such further time (if any) as the Chief Commissioner, Northern Provinces, may be writing under his hand allow, commence operations on the area and thereafter during the period of the licence, unless prevented by local disturbances or unavoidable accident, continuously, vigorously and effectually carry on operations on the said area.

6. The licensee, if not resident in Nigeria and in charge of the operations on the area, shall at all times have a responsible agent resident in Nigeria, and in charge of the operations, and shall forthwith notify the Secretary, Northern Provinces, in writing of every appointment and change in the appointment of such agent.

7. This licence does not entitle the licensee to cut down or destroy any protected trees except with the consent of the proper forestry officer and on payment of the fees and royalties prescribed by the law for the time being regulating the cutting of such trees.

8. This licence shall be produced by the licensee whenever demanded by any officer of the Mines or Survey Department or by any administrative officer.

9. This licence shall be duly registered by the licensee under the provisions of the Land Registration Ordinance.

(Add any further conditions imposed.)

*Strike out if there is no surface rent.

FURTHER REGULATIONS UNDER SECTION 27 OF THE LAND AND NATIVE RIGHTS ORDINANCE.

1. These regulations shall apply to the Cameroons under British Mandate as well as to the remainder of the Protectorate.

2. An assignment of a right of occupancy shall be in Form A in the Schedule or to the like effect.

3. A surrender of a right of occupancy shall be in Form B in the Schedule or to the like effect.

Regulations
16 of 1925
(4th June)
29 of 1928
8 of 1932.
Form A.

Form B.

Land and Native Rights

SCHEDULE

(Amended by 8 of 1932)

FORM A

The Land and Native Rights Ordinance

Reg. 2 of
16 of 1925.
Cap. 105.

ASSIGNMENT OF RIGHT OF OCCUPANCY

WHEREAS under the provisions of the Land and Native Rights Proclamation Ordinance, a Right of Occupancy over the lands described in the schedule, and more particularly delineated in the plan attached, to the Certificate of Occupancy numbered and registered in volume page of the Register of Instruments affecting land at and dated the day of, 19...., was granted to of

NOW THESE presents witness that in consideration of the sum of £.....* (A.B. on behalf of) the said doth hereby assign to all right title and interest in the said lands acquired under the said Certificate of Occupancy at the rent and subject to the conditions therein reserved and contained from the day of, 19.... for the residue unexpired of the term granted by the said Certificate of Occupancy.

IN WITNESS WHEREOF the said † (as Attorney for the above-named by virtue of his Power of Attorney dated the day of, 19...., and registered in volume page of the Register of Instruments affecting land at Kaduna) and the said ‡ (as Attorney for the above-named by virtue of his Power of Attorney dated the day of, 19...., and registered in volume page of the Register of Instruments affecting land at Kaduna) have hereunto set their hands and seals this day of, 19....

Signed, sealed and delivered by

the said
in the presence of
and by the said
in the presence of
Approved

.....
Governor.

* To be inserted when the representative of the assignor holds a power of attorney.
† To be inserted when the representative of the assignor executes under a power of attorney.
‡ To be inserted when the representative of the assignee executes under a power of attorney.

*Land and Native Rights*SCHEDULE—*continued*

FORM B

The Land and Native Rights Ordinance

SURRENDER OF RIGHT OF OCCUPANCY

Reg. 3 of
16 of 1925.
Cap. 105.

WHEREAS under the provisions of the Land and Native Rights Proclamation Ordinance, a Right of Occupancy over the lands described in the schedule, and more particularly delineated in the plan attached, to the Certificate of Occupancy numbered and registered in volume page of the Register of Instruments affecting land at and dated the day of 19...., was granted to of

AND WHEREAS the said..... desires to surrender the said Right of Occupancy and the Governor is willing to accept such surrender.

NOW THESE presents witness that *(A.B. on behalf of) the said doth hereby surrender all right, title and interest of the said in and under the said Certificate of Occupancy as from the day of, 19....

IN WITNESS WHEREOF the said..... *(as Attorney for the above named by virtue of his Power of Attorney dated the day of, 19...., and registered in volume page of the Register of Instruments affecting land at Kaduna) hath hereunto set his hand and seal this day of, 19....

Signed, sealed and delivered by

the said
in the presence of

Approved

.....
Governor.

* To be inserted when the representative of the holder of the certificate holds a power of attorney.

LAND AND NATIVE RIGHTS (TEMPORARY OCCUPATION)

Regulations
11 of 1928
(26th April)
8 of 1932.

1. These regulations may be cited as the Land and Native Rights (Temporary Occupancy) Regulations and shall apply to the Northern Provinces of the Protectorate and the Cameroons under British Mandate.

2. Certificates for the temporary occupancy of lands in the Northern Provinces of the Protectorate and in the Cameroons under

British Mandate and subject to the provisions of the Land and Native Rights Ordinance may be issued by the Resident in charge of a province for a period not exceeding twelve months.

3. All such certificates shall expire on the date mentioned therein, unless sooner determined under regulation 5.

4. The sum payable for the issue of any such certificate and the use to which the land is to be put or the persons to whom certificates are issuable shall be determined by the Resident in charge of the province.

5. Every such certificate shall be subject to the following conditions :—

- (a) Neither the certificate nor any of the rights conferred by it shall be transferred or assigned to any other person.
- (b) The buildings standing on the said area shall be kept in repair to the satisfaction of the Resident in charge of the province or other officer authorised in that behalf by the Resident.
- (c) The Resident in charge of the province may at any time post on the said area a notice to the occupier to quit the whole or part of the said area on or before such date as may be specified in such notice and the occupier shall quit the said area (or part thereof) on or before that date and no refund or compensation shall be payable to the occupier by the Government in respect of the unexpired period of the certificate unless such notice shall have been served owing to the land being required for Government use (as to which the certificate of the Resident in charge of the province shall be final) in which case a refund shall be made in respect of any complete month of such unexpired period ; and in the event of the notice to quit applying to a part only of the said area, such refund shall bear a like proportion to the whole sum paid in respect of the months for which it is made as the area of the said part bears to the whole area.

6. The Resident in charge of the province may authorise any officer to carry out the provisions of these regulations.

7. A certificate for the temporary occupancy of lands subject to the Land and Native Rights Ordinance shall be in the form in the Schedule or to the like effect.

*Land and Native Rights*Reg. 7 of
11 of 1928.

Cap. 105.

SCHEDULE

(Amended by 8 of 1932)

The Land and Native Rights Ordinance

LAND AND NATIVE RIGHTS (TEMPORARY OCCUPANCY) REGULATIONS

CERTIFICATE OF TEMPORARY OCCUPANCY

No.

THIS IS TO CERTIFY that
 of is entitled to a Right of Occupancy in and over
 the plot of land situate at and having an area of
 square yards approximately for the term of
 months from the day of, 19....,
 unless earlier revoked or determined as hereinafter provided, subject to the
 payment upon the issue hereof of the rent of £.....,
 the provisions of the said Ordinance and the following special terms and
 conditions:—

(1) Neither this certificate nor any of the rights conferred by it shall be transferred or assigned to any other person.

(2) The occupier upon receipt or the posting on the said plot of a notice in writing under the hand of the Resident in charge of the province calling upon him to quit the whole or any part of the said plot of land upon a date specified in such notice will quit the whole or part of such land in accordance with such notice.

Dated this day of, 19....

.....
 Governor.

NATIVE AUTHORITY (RIGHT OF OCCUPANCY)

Regulations
 38 of 1940
 (1st July)
 76 of 1941
 20 of 1942.
 First
 Schedule.

1. These regulations may be cited as the Native Authority (Right of Occupancy) Regulations and they shall apply to the areas described in the First Schedule hereto and shall be deemed to have come into operation on the 1st day of July, 1940.

2. The native authority of any area in which any land described in the First Schedule hereto is situate, may cause any portion of such land which is not required for public purposes to be divided into plots suitable for occupation by natives for business or residential purposes.

3. A right to occupy any such plot may, by direction of the Chief Commissioner, be sold by auction and shall be subject to the conditions set out in regulations 11 and 12.

4. The native authority may sell by auction a right to occupy any of such plots, having first determined the minimum rent to be

Land and Native Rights

[Sec. 27

paid and the building conditions (if any) to be complied with by the occupier, subject to any direction by the Chief Commissioner.

5. The place and time of sale shall be notified by the native authority in the Gazette not less than four weeks prior to the day of sale, and the notice shall state—

- (a) the number of plots and the situation and area of each plot ;
- (b) the minimum rent to be paid in respect of each plot ;
- (c) the building conditions (if any) to be complied with by the occupier ; and
- (d) that the right of occupancy will be granted subject to the provisions of regulations 11 and 12 and that natives only may purchase the right of occupancy, and
- (e) the length of time for which each plot will be granted :

Provided that any plot may be withdrawn from sale by the native authority at any time prior to the same being offered for sale.

6. The auction shall be conducted by the native authority who shall, before the commencement of the sale, cause to be read the terms and conditions of the sale (including the provisions of regulations 11 and 12), and all persons bidding at the sale shall be bound by the terms and conditions read.

7. The person who shall offer the highest rent for a plot shall be the purchaser of the right to occupy such plot and shall be entitled to be entered in the book hereafter mentioned as the registered occupier, provided that he shall forthwith pay to the native authority the proportion of the annual rent payable for the period from the date of the sale until December 31st next following. In default of such payment the right to occupy the plot may be again offered for sale, and any subsequent bid by the person who has made default may be ignored or refused.

8. The native authority shall keep a book in which it shall forthwith register—

- (a) the date of the sale of the right to occupy the plot ;
- (b) the name of the purchaser ;
- (c) the number or other sufficient description of the plot ;
- (d) the rent to be paid ;
- (e) the building conditions (if any) to be complied with by the occupier ; and
- (f) the length of time for which the plot has been granted.

*Land and Native Rights*First
Schedule.

9. Whenever the native authority shall authorise the grant, without auction, of a right to occupy a plot in an area described in the First Schedule hereto, subject to the conditions prescribed in regulations 11 and 12, the native authority shall register such right in the manner prescribed by regulation 8, but shall enter in the book the date on which the right of occupancy is granted in lieu of the date of sale.

Second
Schedule.

10. (1) The native authority shall, in all cases of grant, transfer or other devolution of a right of occupancy, issue to the occupier a certificate in the form in the Second Schedule hereto.

(2) On the transfer or termination of the right of occupancy the holder of the certificate shall produce the same to the native authority for cancellation, and in default of so doing, except for good cause shown, shall be liable to a fine of two pounds.

11. Every right of occupancy registered under these regulations shall be subject to the following conditions :—

(a) The right of occupancy shall commence on the day on which the same is sold or granted and shall continue for the term stated in the certificate of occupancy and in the register required to be kept by regulation 8, subject to the determination of the right of occupancy by six months' notice in writing given either by the native authority to the occupier or by the occupier to the native authority and ending on 31st December in any current year, provided that the duration of a right of occupancy shall in no case exceed twenty years.

(b) The annual rent shall be payable in advance without demand at the office of the native authority on the 1st day of January in each year.

(c) The occupier shall comply with the building conditions (if any) attached to the right, and, in areas in which building rules have been made under any Ordinance, with such rules.

(d) The occupier shall at all times during the continuance of the right—

(i) keep the plot and the buildings thereon in a clean and sanitary condition to the satisfaction of the native authority ;

(ii) maintain the boundary marks of the plot in substantial repair ;

Land and Native Rights

(iii) not carry on any noisome or offensive trade on the said plot without the consent in writing of the native authority and subject to such conditions as it may impose ;

(iv) put and maintain in good and substantial repair to the satisfaction of the native authority the buildings thereon ; and

(v) allow free access to the plot and the buildings thereon to the native authority or any person authorised by him to enter and view the same.

(e) If the occupier fails to pay his rent when the same is due or fails to comply with any of the conditions of the right of occupancy, the native authority may, with the consent of the Resident of the province, by notice to the occupier, declare the right of occupancy to be determined, and thereupon all rights of the occupier and of any person claiming through him in respect of the land and buildings thereon shall forthwith determine.

(f) (i) Subject to the last preceding condition, all buildings on the plot shall be the property of the occupier and may be removed by him at any time during the continuance of the right of occupancy :

Provided that the occupier shall make good any damage done to the plot by such removal ;

(ii) any building remaining on the plot after the termination of the right of occupancy shall be come the property of the Governor.

(g) When the right of occupancy has been determined by the native authority under paragraph (a) before the end of December in any year, the occupier shall be entitled to a refund of the rent paid in respect of the unexpired portion of such year.

(h) Save as provided in regulation 12 the right of occupancy shall not be transferred.

(i) The native authority may make a charge of five shillings in respect of the survey of each plot which charge shall be payable by every person on acquiring a right of occupancy whether by purchase, grant, regrant, transfer, or devolution. (*Added by 20 of 1942.*)

Land and Native Rights

12. If an occupier under these regulations desires to transfer his right of occupancy, he and the intending transferee shall attend at the office of the native authority, and the native authority if satisfied that there are no objections to the transfer and that the intending transferee understands the conditions on which the right is held, may, with the consent of the Resident of the province, approve the transfer, which shall be effected by a note of the transfer and the date thereof being entered by the native authority against the entry relating to such right of occupancy in the book mentioned in regulation 8.

13. In the event of the death of a registered occupier the person on whom the right of occupancy shall devolve shall apply to the native authority to be registered as the occupier of the plot. If within three months of the death of the occupier no person shall apply as aforesaid and satisfy the native authority that he is entitled to be registered as the occupier, the right of occupancy shall determine, unless the Chief Commissioner shall otherwise order.

First
Schedule.

14. Every right of occupancy granted by the local authority in accordance with the provisions of Regulations 8 of 1918 made under section 27 of the Land and Native Rights Ordinance and published in the Gazette of 28th February, 1918, over land within any of the areas described in the First Schedule hereto shall from the commencement of these regulations be deemed to have been granted in accordance with the provisions of these regulations.

15. Any notice to be given to an occupier under these regulations may be given either verbally or in writing or by posting the notice on the land.

16. Nothing in these regulations shall be deemed to prohibit the Governor from granting a right of occupancy in any lands described in the First Schedule on any terms and conditions which he may think proper.

FIRST SCHEDULE

(Substituted by 76 of 1941)

The areas delineated by a brown verge line on the plans numbered KAD 156, KAN 124 and ZAR 110 respectively, which are deposited in the office of the Land and Survey Department at Kaduna.

Land and Native Rights

[Sec. 27

SECOND SCHEDULE

*(As amended by 20 of 1942)**The Land and Native Rights Ordinance*

Cap. 105.

THE NATIVE AUTHORITY (RIGHT OF OCCUPANCY) REGULATIONS

38 of 1940.

CERTIFICATE OF OCCUPANCY

Date (Volume..... Page of Register).

This is to certify that
of is entitled to a Right of Occupancy in and
upon Plot No. which is a part of the land formerly known as
the Native Reservation of the Township of
described in the First Schedule to the Native Authority (Right of Occupancy)
Regulations to hold the said plot of land for a term of years,
commencing from the day of, 19.....,
according to the true intent and meaning of the Land and Native Rights
Ordinance and of the Native Authority (Right of Occupancy) Regulations
and to the following terms and conditions (if any):—.....

Rent £..... Building conditions (if any):

Granted on behalf of the Governor and given under our hands the
day and year above written.

.....
Native Authority.

Witness :.....

LAND AND NATIVE RIGHTS (FEES)

1. These regulations may be cited as the Land and Native
Rights (Fees) Regulations. *Regulations*
69 of 1941
(4th Sept.)

2. A fee of one pound shall be payable for every licence
granted under section 28 of the Ordinance. The fee shall be
payable by the applicant at the time of application for the licence
but shall be refunded in the event of the licence being refused.

CERTIFICATES OF OCCUPANCY (FEES)

1. These regulations may be cited as the Certificates of
Occupancy (Fees) Regulations. *Regulations*
123 of 1942
(14th Dec.)

2. The fees set out in the Schedule hereto shall be payable
in respect of the matters or things specified therein. *Fees.*

Land and Native Rights

SCHEDULE

(As amended by Govt. Notice 1457 in Gazette 74 of 1942)

FEES		£	s.	d.
1.	For the preparation of a Certificate of Occupancy—			
(a)	for a term of less than one year	0	10	0
(b)	for a term of one or more years but not exceeding fifteen years	1	0	0
(c)	for a term of more than fifteen years but not exceeding twenty-five years	2	0	0
(d)	for a term exceeding twenty-five years	3	0	0
2.	On the surrender of any Right of Occupancy other than a Right of Temporary Occupancy—			
(a)	where the period of such Right of Occupancy was for a term less than one year	0	10	0
(b)	where the period of such Right of Occupancy was for one year and over			a sum equal to one year's rent payable in respect of such right of occupancy.

Colony and Protectorate of Nigeria—1948 Revision

CHAPTER 134

THE MINERALS ORDINANCE

ARRANGEMENT OF SECTIONS

SECTION

1. Short title and application.

PART I

GENERAL

2. Interpretation.
3. Control of property in minerals vested in the Crown.
4. Prohibition of underground mining except under licence.
5. Saving for native custom.
6. Ordinance does not apply to mineral oils.
7. Mining and prospecting in areas held to be sacred prohibited.
8. Governor may close areas to prospecting.
9. Absent holder of title to have resident agent.
10. Plans of prospecting and mining operations.
11. Capital.
12. Priority.
13. Assignment of mining titles.
14. Lands excluded from prospecting.
15. Royalties.

PART II

PROSPECTING

16. When prospecting lawful and disposal of minerals obtained in prospecting.
17. Grant and duration of a prospecting right.
18. Rights and obligations under a prospecting right.
19. Grant of an exclusive prospecting licence.
20. Notice of application to be given to occupiers of private land.
21. Rights under an exclusive prospecting licence.
22. Obligations of holder of exclusive prospecting licence.
23. Surrender of exclusive prospecting licences.
24. Grant of special exclusive prospecting licence.
25. Ordinance and regulations for exclusive prospecting licences apply to special exclusive prospecting licences.

PART III

MINING

26. When mining lawful.
27. Grant of a mining right.
28. Rights conferred by a mining right.
29. Rights to mine for minerals other than that specified in mining right may be granted.
30. Obligations of holder of mining right.
31. Application of certain sections *mutatis mutandis* to mining rights.

Minerals

SECTION

32. Kinds of mining leases to be prescribed by regulations.
33. Grant of a mining lease.
34. Special mining leases.
35. Technical supervision of mining under mining lease.
36. Duration of mining lease.
37. Implied conditions on part of lessee.
38. Rights of a lessee.
39. Surface rights of a lessee.
40. Surface rents.
41. Right of lessee to take non-protected trees.
42. Lessee to pay compensation to holder of a revoked certificate of occupancy.
43. Conditional right of lessee to remove fixtures.
44. Acceptance of rent not to act as a waiver of forfeiture.

PART IV

PROVISIONS REGARDING WATER

45. Pollution of watercourses prohibited.
46. Purification of water
47. Deposit of tailing.
48. Alterations in water supply prohibited except with permission of the Governor.
49. Offender may be required to take action to prevent the continuance or recurrence of the offence.
50. Persons interfering with river banks may be required to restore them to original condition.
51. Grant of a water licence.
52. Prior permission to dig a leat and to use water.
53. Power to grant provisional water licence.
54. Amendment of water licence.
55. Agreement of interested parties to issue of a water licence.
56. Duration of water licence.
57. Form of water licence.
58. Water licence not to be transferred without consent of Governor.
59. Cancellation of water licence.
60. Powers of Governor over surplus water.
61. Terms and conditions of water licence.

PART V

SURVEYS

62. When survey required.
63. Time for completion.

PART VI

POSSESSION AND PURCHASE OF MINERALS

64. Minerals to which this Part does not apply.
65. Meaning of minerals.
66. Possession of minerals.

Minerals

SECTION

67. Purchase of minerals.
68. Licence to purchase.
69. Restriction on sale.
70. Restriction on purchase.
71. Licensee to keep books.
72. Penalties for offences under two preceding sections.

PART VII

COMPENSATION

73. Governor or Resident or owner or occupier may require security.
74. Compensation to be paid.
75. Assessment of compensation.
76. Suspension or revocation of prospecting right or exclusive prospecting licence for non-payment of compensation.
77. Payment of compensation an implied condition.

PART VIII

APPOINTMENT, DUTIES AND POWERS OF MINES OFFICERS

78. Appointment and duties of mines officers.
79. Duties of Chief Inspector.
80. Duties of mines officers.
81. Powers of mines officers.

PART IX

ROADS

82. Construction of road.
83. Use of mining road.
84. Public roads not to be obstructed.

PART X

INQUIRY INTO ACCIDENTS

85. Accidents to be reported.
86. Chief Inspector to decide if inquiry shall be held by the Mines Department.
87. Inquiry by magistrate.
88. (1) Procedure on inquiry.
88. (2) Right of appeal against finding as to whether person was tributer or not.
89. Award of compensation.
90. Where accident attributable to misconduct of tributer or other persons working in common.
91. Order for payment in one lump sum or in instalments.
92. Refusal to accept amount of compensation and appeal to Governor by person ordered to pay.
93. Payment of compensation.
94. Sum due on award under section 89 may be recovered as if decision were judgment of court.
95. Power to summon witnesses and expenses of witnesses.
96. Definition of serious injury.

Minerals

PART XI

OFFENCES AND PENALTIES

SECTION

- 97. Salting.
- 98. Fraudulent applications.
- 99. Defacement or removal of any boundary mark is an offence.
- 100. Wilfully or recklessly giving false information is an offence.
- 101. Interfering with mining, prospecting or exercise of right under this Ordinance is an offence.
- 102. Penalties.
- 103. Summary trial.
- 104. Liability of employer for offences committed by his servants.

PART XII

REVOCATION

- 105. Saving.
- 106. Power to revoke prospecting right.
- 107. Power to revoke exclusive prospecting licence, mining right, mining lease or water licence.
- 108. Power to vary or add to Second Schedule.
- 109. Service of notice.
- 110. Saving.

PART XIII

MISCELLANEOUS

- 111. Mining titles are bounded by vertical planes.
- 112. Land required for public purposes.
- 113. Rights subsequently granted.
- 114. Preference between rights granted under this Ordinance and under Chapter 135.
- 115. Right of certain officers to enter and inspect.
- 116. Obligations of holders of mining titles on termination of their titles.
- 117. Arbitration.
- 118. Government officers prohibited from acquiring rights.
- 119. Chief Inspector may prohibit tributing
- 120. Governor in Council may make regulations.
- 121. Governor empowered to alter Forms.

PART XIV

REPEAL

- 122. Repeal.

Minerals

CHAPTER 134

MINERALS

(Colony and Protectorate)

AN ORDINANCE TO AMEND AND CONSOLIDATE THE LAW RELATING
TO MINES AND MINERALS.

Ordinance
No. 55 of
1945⁽¹⁾
35 of 1946.

[25th February, 1946]⁽²⁾

PART I

GENERAL

1. (1) This Ordinance may be cited as the Minerals Ordinance.

Short title
and
application.

(2) The provisions of this Ordinance shall apply to all prospecting licences, mining rights and mining leases given or granted on and after the date on which this Ordinance comes into operation whether or not application for any such licence, right or lease has been made prior to that date under the provisions of any repealed Ordinance, enactment or Proclamation.

(3) The provisions of this Ordinance shall apply to all mining rights and mining leases and to all renewals thereof granted under the provisions of any repealed Ordinance, enactment or Proclamation and to renewals of any such rights or leases granted on or after the date on which this Ordinance comes into operation and to any exclusive prospecting licence granted under the provisions of any such Ordinance, enactment or Proclamation and renewed on or after the date on which this Ordinance comes into operation.

2. Definitions :—

Interpreta-
tion.

“alluvial” includes all forms of mineral deposits, other than carbonaceous deposits, which do not fall within the definition of “lode” ;

“basalt area” means an area which in the opinion of the Chief Inspector should be so designated ;

“Chief Inspector” means the Chief Inspector of Mines appointed by the Governor in accordance with the provisions of this Ordinance ;

“congested area” means any area which the Governor by notice in the Gazette may declare to be a congested area ;

⁽¹⁾ This Ordinance repealed the Minerals Ordinance, Chapter 93 of the 1923 edition and amending Ordinances.

⁽²⁾ Public Notice 21 in Gazette 9 of 1946.

Minerals

“court” means any duly constituted court other than a native court ;

“holder” of a prospecting right or exclusive prospecting licence or mining right or water licence means the person to whom such right or licence was granted and in the case of an exclusive prospecting licence, mining right or water licence includes a person in whom such licence or right or a part of the rights thereunder has become vested by assignment or otherwise ;

“inspector” means an inspector of mines appointed by the Governor in accordance with the provisions of this Ordinance, includes the Deputy Chief Inspector and includes a senior inspector of mines ;

“lessee” of a mining lease includes all persons having any right or interest in or under a mining lease, whether by assignment or otherwise ;

“lode” means and includes all true fissure veins, contact veins, segregated veins, bedded veins, metalliferous bankets, stock-works, such irregular deposits as conform generically to the above classification, and beds of any mineral such as beds of iron-stone ;

“mine” includes any place, excavation or working whereon, wherein or whereby any operation in connexion with mining is carried on ;

“to mine” means intentionally to win minerals and includes any operations necessary for the purpose ;

“mineral” does not include mineral oils but includes the following as classed hereunder :—

metalliferous
minerals.

(a) metalliferous minerals, including antimony, arsenic, bismuth, cerium, copper, cobalt, columbium, chromium, cadmium, iron, lead, manganese, mercury, molybdenum, nickel, tantalum, tin, tungsten, zinc and all others of a similar nature to any of them, and all ores containing them and combinations of any of them with each other or with any other substance, excepting only those that occur in the form of precious minerals ; (*Amended by No. 35 of 1946.*)

carbonaceous
minerals.

(b) combustible carbonaceous minerals, including—

(i) coal,

(ii) lignite which shall include brown coal and any coal

Minerals

which the Governor may declare to be lignite if advised by the Chief Inspector that the estimated average ash content is so high or the estimated average thermal value is so low that such coal may properly be classed as lignite ;

- (c) non-metallic minerals, including minerals used for their abrasive or refractory qualities and asbestos, barytes, bauxite, china clay, fuller's earth, graphite, gypsum, marble, mica, nitrates, phosphates, pipeclay, potash, salt, slate, soda, sulphur, talc and all other substances of a similar nature to any of them ; non-metallic
minerals.
- (d) precious minerals including— precious
minerals.
- (i) precious stones, namely : amber, amethyst, beryl, cat's eye, chrysolite, diamond, emerald, garnet, opal, ruby, sapphire, turquoise and all other substances of a similar nature to any of them ;
- (ii) precious metals, namely : gold, silver and metals of the platinoid group in the unmanufactured state, including ores containing such metal, but not including ores containing any such metal in combination with another mineral when such metal cannot be worked apart from such mineral and the value of such metal is less than the cost of producing both the metal and the mineral ; and
- (iii) radio-active minerals, namely pitch-blende and other ores of uranium ;
- (e) the valuable parts of ores or other substances when unmanufactured ; and
- (f) the product of treating or dressing ores or other substances for marketing or export ;

“open-cast” means any uncovered excavation which has been made from the surface for the purpose of winning minerals ;

“owner” in relation to private land includes a lessee and in relation to land or other property of a native community means the chief or head of the community, provided that when any payment is required to be made under this Ordinance to such owner the Governor may direct either that the payment be made to such chief or headman to be disposed of by him in accordance with native law or custom, or that the payment shall be made into some fund specified by the Governor to be utilised for the benefit of the native community ;

- “pollution” means contamination with any chemical or other substance in such a quantity as to be injurious to animal or vegetable life ;
- Cap. 45. “private land” means any land which is neither Crown land within the meaning of the Crown Lands Ordinance nor native land within the meaning of the Land and Native Rights Ordinance, and includes land held under a grant from the Crown ;
- Cap. 105. “prospect” and “prospecting” mean to search for minerals and include such working as is reasonably necessary to enable the prospector to test the mineral-bearing qualities of the land but do not include the removal of overburden from ground which can reasonably be sampled by pits not exceeding seven feet square or by bore-holes ;
- Cap. 75. “protected trees” means trees which are for the time being declared to be protected trees under the Forestry Ordinance and includes all trees within a forest reserve ;
- Cap. 185. “public purposes” has the meaning assigned to that term by the Public Lands Acquisition Ordinance ;
- “public road” means any road constructed by the Government or a native community for the use of the public, and includes any road, by whomsoever constructed, declared by Government notice to be a public road ;
- “the regulations” means any regulations made under this Ordinance ;
- Cap. 105. “right of occupancy” means a right of occupancy as defined in the Land and Native Rights Ordinance ;
- “Secretary” means the Secretary of the group of provinces in which the area concerned is situated ;
- “shaft” means any vertical or inclined tunnel other than a stope or winze which is or might be used for winding, travelling, draining or ventilating purposes in connexion with prospecting or mining operations ;
- “tailing” means all gravel, sand, slime or other substance which is the residue of *bona fide* mining operations ;
- Cap. 234. “tributer” has the same meaning as from time to time contained in the Workmen’s Compensation Ordinance ;
- “watercourse” means any channel or duct whether natural or artificial which confines, restricts or directs the flow of water.

Minerals

3. (1) The entire property in and control of all minerals, and mineral oils, in, under or upon any lands in Nigeria, and of all rivers, streams and watercourses throughout Nigeria, is and shall be vested in the Crown, save in so far as such rights may in any case have been limited by any express grant made before the commencement of this Ordinance.

Control and property in minerals, mineral oils and in water vested in the Crown. Prohibition of prospecting, mining or diverting or impounding water without authority.

(2) Except as in this Ordinance provided no person shall prospect or mine on any lands in Nigeria or divert or impound water for the purpose of mining operations.

4. Notwithstanding anything in this Ordinance contained no person shall conduct mining operations underground unless he holds a licence from the Chief Inspector authorising him to do so. Such licence shall be subject to such conditions as may be prescribed therein or by the regulations.

Prohibition of underground mining except under licence.

5. Nothing in this Ordinance contained shall be deemed to prevent any native of Nigeria from taking, subject to such conditions as may be prescribed, iron ore, salt, soda, potash or galena from lands (other than lands within the area of a lease or mining right) from which it has been the custom of the members of the community to which such native belongs to take the same.

Saving as to the taking of certain minerals by natives.

6. Nothing in this Ordinance contained shall be construed so as to confer any right to prospect for or to win any mineral oil.

Ordinance does not apply to mineral oils.

7. Nothing in this Ordinance contained shall be construed so as to sanction prospecting or mining on, in or under any area held to be sacred or to sanction the injury or destruction of any tree or other thing which is the object of veneration.

Saving of sacred areas, trees and other objects of veneration.

If any question arises under this section as to whether any area is held to be sacred or whether any tree or other thing is the object of veneration, such question shall be decided by the Resident of the province, whose decision shall be final.

8. (1) It shall be lawful for the Governor, by notice in the Gazette, to declare any area to be closed to prospecting either generally or for any specified mineral for such period as may be specified in such notice or without period assigned. Any person, other than the holder of an exclusive prospecting licence (or his agent or agents) prospecting on the area of such licence, who shall prospect within an area which is closed to prospecting shall be guilty of an offence.

Governor may close areas to prospecting.

(2) The Governor may grant authority on such terms as he may think fit to any person to prospect on any land which has been declared to be closed to prospecting.

Holder of mining title not personally resident in Nigeria and companies with head offices elsewhere than in Nigeria to appoint attorney resident Nigeria.

9. (1) Every holder of an exclusive prospecting licence or mining right and every lessee of a mining lease when not personally resident in Nigeria and every company which has its head office elsewhere than in Nigeria shall appoint and at all times have an attorney resident in Nigeria with full powers to represent the holder or lessee in all matters relating to his licence, right or lease except the surrender thereof and shall, as soon as possible after making such appointment or any change in such appointment, send to the Secretary and to the Chief Inspector a copy of the power of attorney and of any document by which such power of attorney is altered.

(2) Should the holder of an exclusive prospecting licence or mining right or the lessee of a mining lease fail either to appoint an attorney or to confer adequate powers upon the attorney as provided in the preceding sub-section the Governor may, by a notice published in the Gazette, prohibit the continuance of operations in the area comprised within the licence, right or lease.

(3) If no copy of a valid power of attorney conferring adequate powers on the attorney is received by the Secretary within three months of the publication of the notice mentioned in the preceding sub-section the Governor may, by a further notice published in the Gazette, revoke the exclusive prospecting licence, mining right or mining lease.

Plans of prospecting and mining operation

10. (1) Every holder of an exclusive prospecting licence or mining right and every lessee of a mining lease shall at all times keep correct plans of all prospecting or mining done and correct records of all mineral values found and ore reserves calculated on the area of his licence, right or lease, and shall supply to the Chief Inspector on request, copies of such plans and records.

(2) The plans required to be kept by sub-section (1) shall be on the prescribed scale.

Capital.

11. (1) The Governor⁽¹⁾ may require an applicant for an exclusive prospecting licence, mining right or mining lease to show to his satisfaction that he commands sufficient working

(¹) Power delegated to Chief Inspector of Mines.

Minerals

capital to ensure the proper prospecting, development or working as the case may be, of the area applied for and may require the applicant to furnish a banker's guarantee in Form L of the First Schedule for such amount as may be prescribed. Form L.

(2) The Governor⁽¹⁾ may require any reports on the area of a mining lease made by prospectors or engineers to be submitted for his information.

(3) In the event of the applicant failing to satisfy the Governor as aforesaid the Governor may refuse the application but the applicant may make a new application at any time.

12. If application is received for the same area or for overlapping areas from two or more persons on the same business day that application which is first received in order and in proper form by the prescribed officer shall be deemed to have priority over the others. Priority.

The decision of the Governor on any question of priority shall be final unless he shall direct that the matter be referred to arbitration.

13. (1) The holder of an exclusive prospecting licence or mining right or the lessee of a mining lease shall not assign his licence, right or lease, or any portion of the rights or interests conferred thereby without the consent in writing of the Governor⁽²⁾ signified by endorsement on the instrument of assignment and every such instrument shall be for all purposes null and void without the said endorsement. Assignment of mining titles.

(2) The assignee shall be liable for all rents and obligations under this Ordinance which may have accrued at the time of assignment.

(3) An assignment shall be in Form H in the First Schedule or to the like effect. Form H.

14. (1) No prospecting right, exclusive prospecting licence, mining right or mining lease granted under this Ordinance shall authorise prospecting or mining on or in, the erection of beacons on or the occupation of, any of the following lands:— Lands excluded from prospecting and mining.

(a) land set apart for, or used for or appropriated or dedicated to, any public purpose (other than mining) except with the consent of the Governor⁽³⁾;

(1) Power delegated to Chief Inspector of Mines.

(2) Power delegated to Chief Commissioner, Northern Provinces.

(3) Power delegated to Chief Commissioners.

- (b) land situate within any township or Government station except with the consent of the owner or holder of the surface rights and of the Governor⁽¹⁾ ;
- (c) land occupied by any native town, village, market, burial ground or cemetery or any land declared to be a congested area except with the permission of the Governor⁽¹⁾ and the Governor⁽¹⁾ may from time to time by order determine the boundaries of any native town, village, market, burial ground or cemetery where any doubt arises as to such boundaries ;
- (d) land appropriated for any railway or situate within one hundred yards of any railway except with the prior consent in writing of the Governor⁽¹⁾ and subject to such conditions as the Governor⁽¹⁾ may prescribe ;
- (e) land which is the site of, or is within fifty yards of, any Government or public building, reservoir, dam, public road or tramway without the prior consent in writing of the Governor⁽¹⁾ and subject to such conditions as the Governor⁽¹⁾ may prescribe ;
- Cap. 223. (f) land within an area declared to be an unsettled district under section 2 of the Unsettled Districts Ordinance without the prior consent in writing of the Governor⁽¹⁾ and subject to the conditions, if any, prescribed by the Governor⁽¹⁾ ;
- (g) land actually under cultivation without the consent of the owner or occupier of the land ;
- (h) land which is the site of, or is within fifty yards of, any building without the consent of the occupier of the building ;
- (i) land over which exclusive prospecting licences, mining rights or mining leases have previously been granted by the Governor and are still subsisting except by the holder of or lessee of such licence, right or lease ; for the purposes of this paragraph an exclusive prospecting licence shall be deemed to be still subsisting until the expiry of the three months prescribed in section 21 (b) ;
- Cap. 208. (j) land declared by the Governor to be a restricted area under section 10 of the Sleeping Sickness Ordinance except by a person duly authorised in accordance with the provisions of that Ordinance to enter a restricted area :

⁽¹⁾ Power delegated to Chief Commissioners.

Minerals

Provided that if the Governor⁽¹⁾ shall be satisfied that the consent required under paragraph (g) or (h) is withheld unreasonably the Governor may authorise the holder of the licence or right or lease to prospect or mine on or in any such land subject to such conditions as he may prescribe.

(2) Any person prospecting or mining on or under any lands specified in sub-section (1) without the requisite consent or authority shall be guilty of an offence.

15. All minerals obtained in the course of prospecting or mining operations shall be liable to such royalties as may be prescribed : Royalties.

Provided that no royalty shall be payable on any mineral sample certified by the Chief Inspector as being exported solely for the purpose of analysis or experiment or as a scientific specimen and not being a greater quantity than in his opinion is necessary for such purpose.

PART II

PROSPECTING

16. (1) Prospecting shall be lawful under a prospecting right or an exclusive prospecting licence : When prospecting lawful.

Provided, however, that the Governor may by notice in the Gazette prohibit prospecting for any specified mineral, and in such case a prospecting right or exclusive prospecting licence, whether such right or licence be granted before or after such notice, shall not authorise the holder thereof to prospect for such mineral unless the contrary is expressly provided in the right or licence.

(2) Minerals raised or obtained in the course of prospecting under a prospecting right or an exclusive prospecting licence shall be the property of the Crown and shall not be removed from the land or disposed of by the holder of the right or licence or by any other person except with the consent of the Chief Inspector. Minerals raised by holder of a prospecting right or of an exclusive prospecting licence to be the property of the Crown and not to be removed except with consent.

(3) The Chief Inspector may authorise the removal of such minerals from the land from which they have been obtained to any place approved by him for safe custody, subject to such conditions, if any, as he may think fit.

(1) Power delegated to Residents.

Minerals

Conditions on which minerals raised may be retained or disposed of.

(4) If the holder of a prospecting right or an exclusive prospecting licence desires to retain or dispose of any minerals raised or obtained in the course of prospecting he shall make application to the Chief Inspector in the prescribed manner, and if the said Chief Inspector is satisfied that the prospector has been conducting such work only as was reasonably necessary to enable him to test the mineral bearing qualities of the land, he may authorise the applicant to retain and dispose of the minerals in respect of which application is made on payment of the prescribed royalties.

Prospecting Rights

Grant and duration of a prospecting right. Form A.

17. (1) The prescribed officer may in his absolute discretion issue to any person, upon payment of the prescribed fee, a prospecting right in Form A in the First Schedule: and he may by endorsement thereon restrict the use of the prospecting right—

- (a) to specified divisions;
- (b) to specified minerals:

Provided that a prospecting right shall not be granted—

- (i) to any person who in the opinion of the prescribed officer is not able to read and understand this Ordinance in such a way as to form a reasonable guide to and restriction on his actions;
- (ii) to any person who is under twenty-one years of age;
- (iii) except with the consent of the Governor, to any person who or whose present employer or partner has been convicted of an offence under this Ordinance, or who or whose present employer or partner has previously held any right, licence, or lease granted under this Ordinance or under any previous enactment relating to minerals which has been revoked by reason of a breach of the terms or conditions of the same: (*Amended by No. 35 of 1946.*)

Provided that, if such consent has once been given after such conviction or revocation, it shall not be necessary in respect of any subsequent application;

- (iv) to any person who is unable to give satisfactory proof that he possesses sufficient money or credit to enable him to pay any expenses which may be incurred by prospecting in an adequate manner and any compensation which may be payable by him in the exercise of the rights conferred by a prospecting right;

Minerals

(v) to any person who is not in possession of a copy of this Ordinance and the regulations thereunder.

(2) Any person aggrieved by the refusal of the prescribed officer to grant him a prospecting right may appeal to the Governor whose decision thereon shall be final.

(3) A prospecting right granted to a person in the employ of another person and paid for by the employer, may, at the request of the employer be cancelled by the prescribed officer if the holder leaves the service of such employer, and the employer at the same time returns the said right to the office of the prescribed officer for cancellation.

(4) (a) A prospecting right shall not be granted to a company or partnership as such but may be granted to an individual as agent of the company or partnership. In such case the application shall be made by the agent and shall be supported by a written undertaking by the company or partnership to be responsible for the acts and omissions of the agent who shall also be responsible for his own acts and omissions.

(b) The grant of a prospecting right to an agent does not imply that the agent is accepted as a person who would be granted a prospecting right in his own name. The prescribed officer may in considering an application by such an agent for a prospecting right take into consideration the degree of control which the principal is likely to exercise over the agent.

(5) A prospecting right shall remain in force for one year from the date thereof unless previously revoked or determined in accordance with the provisions of sub-section (3) of this section.

(6) A prospecting right shall not be transferable.

(7) A prospecting right shall be produced whenever demanded by any administrative, mines or police officer or by the owner or occupier of private land or by the occupier of land occupied under a Crown lease or a right of occupancy on which the holder of the prospecting right is prospecting or intends to prospect.

18. (1) The holder of a prospecting right may—

(a) enter upon and prospect on any land within the divisions specified in the prospecting right (not being land closed to prospecting under section 8) including any of the lands referred to in section 14 if he has first obtained the consent of the authority or person therein stated to be entitled to give such consent but not otherwise ;

Rights and obligations under a prospecting right.

(b) whilst engaged in *bona fide* prospecting construct a camp and take timber (other than protected trees), and water from any lake, or watercourse not the subject of a water licence for domestic purposes or for the purposes of prospecting ;

(c) sink shafts or wells and dig holes or trenches :

Provided as follows :—

(i) the holder shall not divert water from any watercourse without the consent in writing of an inspector or of an administrative officer ;

(ii) the holder shall not prospect in any forest reserve except with the consent of the Chief Commissioner and such consent may be made subject to such conditions as the Chief Commissioner may deem necessary ;

(iii) any holder intending to prospect on private land or on land occupied under a Crown lease or the subject of a right of occupancy shall give notice to the district officer concerned and, where practicable, give notice of his intention to the occupier of such land before commencing prospecting operations thereon ;

(iv) permits to take protected trees without the payment of royalties and fees may be granted by the proper authority to persons who are carrying out underground prospecting for the purposes of such prospecting. If any question arises as to whether the operations for which such timber is required or is being used are or are not prospecting the matter shall be referred to the Chief Inspector whose decision shall be final.

(2) Any holder of a prospecting right who fails to give any notice required under the last preceding sub-section or fails to comply with the conditions imposed by the Chief Commissioner, shall be guilty of an offence.

Exclusive Prospecting Licences

Grant of an
exclusive
prospecting
licence.

19. (1) The Governor⁽¹⁾ may in his absolute discretion grant an exclusive prospecting licence to prospect for such minerals as

(1) Power to grant exclusive prospecting licences delegated to Chief Commissioner, Northern Provinces. Power to prepare and execute exclusive prospecting licences the grant and terms of which have been approved by the Governor or the Chief Commissioner, Northern Provinces, as the case may be, delegated to Chief Commissioners and, in the absence of the Chief Commissioner from the headquarters of his group of provinces, the Secretary thereof.

Minerals

are stated in the licence to any person who, being the holder of a prospecting right, has beaconed the area over which the licence is applied for or who has, by an agent who is the holder of a prospecting right on his behalf, beaconed such area. On the application of any licensee the Governor may add to or vary the minerals so stated in any exclusive prospecting licence.

(2) The applicant for an exclusive prospecting licence shall be informed at the time of approval of his application of any special conditions which it is proposed to include in any lease granted by virtue of his exclusive prospecting licence.

(3) The holder of an exclusive prospecting licence or any person who in the opinion of the Governor in the exercise of his absolute discretion is associated with or employed by him on the said exclusive prospecting licence shall not be granted, within one year after the expiry or revocation of the said exclusive prospecting licence, an exclusive prospecting licence in respect of any portion of the area covered by the original exclusive prospecting licence.

(4) An exclusive prospecting licence shall be in Form B in Form B the First Schedule.

(5) An exclusive prospecting licence shall not be granted in respect of an area exceeding eight square miles.

(6) An exclusive prospecting licence shall be granted for one year from the date specified therein but may be renewed in whole or in part at the discretion of the Governor⁽¹⁾ for further terms of one year each up to a maximum of two renewals where the mineral is in alluvium, four renewals where the mineral is covered by basalt and five renewals where the mineral is in lode : Renewal.

Provided that the Governor⁽¹⁾ may grant renewals of such licence in whole or part for such further periods of one year each if it be shown that all obligations have been fulfilled or that prospecting operations have been stopped or seriously hindered by circumstances beyond the control of the licensee :

Provided further that should the application for renewal be refused the licence shall be valid for a further period of three months from the date on which it would otherwise have expired.

⁽¹⁾ Power to approve renewal of an exclusive prospecting licence in accordance with section 19 (6), but not under the Proviso to that section delegated to the Chief Commissioner, Northern Provinces.

(7) Application for the renewal of an exclusive prospecting licence shall be made in writing at least one month before the date of the expiry thereof and the licence and a copy of the plans required by section 10 and the rent due for the following year shall be forwarded together with the application. When such application has been made as aforesaid but the applicant has not been notified whether his application is granted before the date on which the licence expired, the holder may continue his prospecting operations until he is notified that his application is refused. If approved the renewal shall date from the date on which the licence would but for such renewal have expired. If not approved the applicant but no other person may during a period of three months commencing on the day after the notice of refusal, or the date of the expiration of the licence, whichever shall be later, beacon and apply for mining rights and mining leases within the area of the exclusive prospecting licence.

Cap. 223.

(8) When the holder of an exclusive prospecting licence is prevented from prospecting by reason of the area of his prospecting licence being included in an unsettled district declared under the Unsettled Districts Ordinance, the time during which prospecting is so prevented shall not be reckoned in the currency of the licence.

Notice to be given to owner or occupier of land.

20. When application is made for an exclusive prospecting licence in respect of an area which includes any private land or land occupied under a Crown lease or right of occupancy, notice of such application shall be given in the prescribed manner to the owner or occupier of such land before the licence is granted.

Rights under an exclusive prospecting licence.

21. The holder of an exclusive prospecting licence—

(a) shall have the sole right of prospecting upon the land within the area of his licence, and for such purpose may—

(i) enter upon such land with his agents and workmen and thereupon exercise all or any of the rights conferred upon the holder of a prospecting right,

(ii) employ in prospecting on such land any number of persons who for the purpose of such prospecting shall not be required to hold prospecting rights, and

(iii) erect and maintain such machinery and plant and subject to the provisions of Part IX of this Ordinance, construct such ways as may be necessary for or in connexion with his prospecting operations ;

Minerals

(b) who shall have fulfilled all the conditions attached thereto shall be entitled within a period of three months from the date of expiry of the licence and subject to the provisions of this Ordinance to the grant of a mining lease for any mineral for which he was authorised to prospect (the authority not having been determined by a notice under section 16 (1)), in respect of any portion of the area included in the licence :

Provided that the Governor⁽¹⁾ may for any reason he may think proper exclude from the lease any portion of the area for which application is made.

22. (1) The holder of an exclusive prospecting licence shall, during the currency of the licence, carry on in a safe, orderly, skilful, efficient and workmanlike manner in accordance with the regulations prospecting operations on the land included in the area in respect of which the licence has been granted :

Obligations
of the holder
of an
exclusive
prospecting
licence.

Provided that the Governor⁽²⁾ may, on the application of the holder and for good cause shown, by writing under his hand suspend the obligation to work imposed by this section in respect of any licence for such time as the Governor may deem proper ; and may in the same manner direct that any such time or any part thereof shall not be reckoned in the currency of the licence, if during such time no work is done by the holder on the lands included in the area covered by the licence.

(2) Unless otherwise provided the rights and obligations imposed by section 18 on the holder of a prospecting right shall apply to the holder of an exclusive prospecting licence.

(3) The holder of an exclusive prospecting licence if not personally residing on the land the subject of the licence or in the opinion of the Chief Inspector not residing sufficiently near to give continuous supervision to prospecting operations on such land shall at all times have a responsible agent supervising such operations.

23. The holder of an exclusive prospecting licence may, on payment of the prescribed fee, surrender his licence and such

Surrender
of an
exclusive
prospecting
licence.

⁽¹⁾ Power delegated to Chief Commissioner, Northern Provinces,

⁽²⁾ Power delegated to Chief Inspector of Mines.

Minerals

Form C. surrender shall be in Form C in the First Schedule or to the like effect :

Provided that such surrender shall not affect any liability incurred by the holder before such surrender shall have taken effect and that no rent shall be refunded.

Grant of special exclusive prospecting licence.

24. The Governor⁽¹⁾ may in his absolute discretion notwithstanding anything in this Ordinance or the regulations contained grant a special exclusive prospecting licence in respect of any area exceeding the area specified in sub-section (5) of section 19 and for a period exceeding one year upon such special terms and conditions, whether in accordance with the provisions of this Ordinance and the regulations or not, as he may think fit.

Ordinance and regulations applicable to exclusive prospecting licences to apply.

25. Every special exclusive prospecting licence shall be granted subject to the provisions of this Ordinance and the regulations applicable to an exclusive prospecting licence save where such provisions are at variance with any special terms and conditions imposed by the Governor. A special exclusive prospecting licence may be renewed at the discretion of the Governor for further terms of one year each up to a maximum of five renewals.

PART III

MINING

Mining. 26. (1) Mining shall be lawful under a mining right or a mining lease.

Temporary grants.

(2) When under the provisions of this Ordinance application has been made for a mining right or a mining lease and it is probable that delay will ensue in the consideration of such application owing to difficulty in the completion of the survey or for any other reason the Governor,⁽²⁾ in his absolute discretion, may grant to the applicant a temporary mining right or a temporary mining lease which may be in the Form D in the First Schedule hereto and such temporary grant may be subject to such covenants and conditions as may be imposed under the provisions of this Ordinance in respect of a mining right or a mining lease and to

Form D.

(¹) Power to prepare and execute titles for special exclusive prospecting licences, the grant and terms of which have been approved by the Governor, delegated to Chief Commissioners and, in the absence of the Chief Commissioner from the headquarters of his group of provinces, the Secretary thereof.

(²) Power delegated to Chief Commissioner, Northern Provinces, in cases in which the Chief Commissioner can grant final title.

Minerals

such further conditions and restrictions as the Governor in his absolute discretion may deem necessary.⁽¹⁾

(3) Any such temporary grant shall be for such period as the Governor⁽²⁾ may decide and shall entitle the grantee, subject to the provisions of this Ordinance and the regulations, to mine in the area applied for and shown on a plan to be supplied by the applicant and to dispose of the minerals won therefrom but shall not entitle or give any claim to the grantee of such temporary grant to a mining right or a mining lease over the area concerned or affect the consideration of the application for the mining right or mining lease in respect of which the temporary grant is made.

Rights under a temporary grant.

(4) The grantee of a temporary mining right or a temporary mining lease shall conduct mining operations in accordance with the provisions of this Ordinance and the regulations relating to mining, and mining rights or mining leases as the case may be and shall so operate at his own risk in respect of the area and its boundaries and all other matters connected with such mining operations.

Temporary grant at the risk of grantee.

(5) The Governor,⁽²⁾ in his absolute discretion, may at any time cancel a temporary mining right or mining lease and nothing done, granted or permitted under the provisions of this section shall in any way be construed to limit the discretion conferred upon the Governor under the provisions of this section or of section 27 or of section 33.

Temporary grant may be cancelled.

A—Mining Rights

27. (1) The Governor⁽²⁾ may in his absolute discretion but subject to the provisions of section 35 and the other provisions of this Ordinance, grant a mining right to any person who, being the holder of a prospecting right, has beaconed the area over which the mining right is applied for or who has, by an agent who is the holder of a prospecting right on his behalf, beaconed such area, or to the holder of an exclusive prospecting licence, provided that in the latter case the area over which the mining

Grant of a mining right.

⁽¹⁾ Power to prepare and execute temporary mining rights or temporary mining leases where the grant of such temporary titles has been approved by the Governor or the Chief Commissioner, Northern Provinces, delegated to Chief Commissioners and, in the absence of the Chief Commissioner from the headquarters of his group of provinces, the Secretary thereof.

⁽²⁾ Power delegated to Chief Commissioner, Northern Provinces.

right is applied for lies wholly within the boundaries of the area covered by that licence.⁽¹⁾

(2) The provisions of section 20 shall apply *mutatis mutandis* to an application for a mining right.

(3) Mining rights may be granted in respect of such areas as may be prescribed.

Form E.

(4) A mining right shall be in Form E in the First Schedule and shall remain in force for one year from the date thereof but may be renewed by the Governor⁽²⁾ in his absolute discretion for further terms of one year.

(5) The Governor⁽²⁾ may in his absolute discretion impose such covenants and conditions in the grant of a mining right as he may deem necessary and the provisions of section 33 relating to any covenants and conditions in respect of the restoration of any area used for mining operations shall *mutatis mutandis* apply to the grant or renewal of a mining right.

Renewal.

(6) Application for the renewal of a mining right shall be made in writing at least one month before the date of expiry thereof and the title and the rent due for the following year shall be forwarded together with the application. When such application has been made as aforesaid but the holder has not been notified whether his application is allowed before the date on which the right expires the holder may continue his mining operations unless and until notified that his application is refused. If approved the renewal shall date from the date on which the right would but for such renewal have expired.

Rights
conferred by
mining right.

28. (1) A mining right shall confer upon the holder thereof the right to enter upon the lands in respect of which the mining right is granted and the exclusive right to mine therein the alluvial minerals specified in the right and to take and dispose of any such minerals obtained subject to the payment of the prescribed royalties, and, for and in connexion with his mining operations, the holder may exercise all or any of the rights conferred by section 39 on a mining lessee, with the exception of the rights specified in paragraph (e) of the said section.

(¹) Power to prepare and execute a mining right where the grant has been approved by the Governor or Chief Commissioner, Northern Provinces, delegated to Chief Commissioners and, in the absence of the Chief Commissioner from the headquarters of his group of provinces, the Secretary thereof.

(²) Power delegated to Chief Commissioner, Northern Provinces.

Minerals

(2) A holder of a mining right shall not divert water from any watercourse within the area of his right without the consent in writing of an inspector.

(3) The provisions of section 40 shall apply *mutatis mutandis* to a mining right.

29. (1) The Governor⁽¹⁾ may grant to the holder of a mining right authority upon such terms as he may think fit to mine in the area covered by his right for any alluvial mineral other than those specified in the mining right and may vary or revoke such authority.

Mining for minerals other than those specified in the mining right.

(2) If the holder of a mining right mines for any minerals other than those specified in his mining right without authority being granted under the preceding sub-section his right shall become liable to forfeiture.

30. The holder of a mining right shall adequately carry on mining operations in the lands the subject of the mining right to the satisfaction of the Chief Inspector, and shall furnish such reports and returns and shall keep such books and plans as may be prescribed :

Obligations of holder of mining right.

Provided that the Governor⁽²⁾ may on the application of the holder and for good cause shown by writing under his hand suspend the obligations imposed by this section as regards the mining operations to be conducted for such time and subject to such conditions as the Governor may think fit.

31. The provisions of sections 35, 41, 42, 43 and 44 shall apply *mutatis mutandis* to a mining right.

Application of certain sections *mutatis mutandis* to mining rights.

B—Mining Leases

32. Mining leases shall be of such kinds and in respect of such areas as may be prescribed by the regulations.

Kinds of leases to be prescribed by regulations.

33. (1) The Governor⁽³⁾ may grant a mining lease—

(a) in his absolute discretion to any person who, being the holder of a prospecting right has beaconed the area over

Grant of a mining lease.

(1) Power delegated to Chief Commissioner, Northern Provinces.

(2) Power delegated to Chief Inspector of Mines.

(3) Power delegated to Chief Commissioner, Northern Provinces, over an area not exceeding 200 acres. Power to prepare and execute a mining lease, where the grant and terms have been approved by the Governor or the Chief Commissioner, Northern Provinces, delegated to Chief Commissioners and, in the absence of the Chief Commissioner from the headquarters of his group of provinces, the Secretary thereof.

Minerals

which the lease is applied for or who has by an agent who is the holder of a prospecting right on his behalf, beaconed such area and who has given the notice prescribed under section 20 ; or

- (b) to the holder of an exclusive prospecting licence in respect of an area lying wholly within the boundaries of his licence who has by himself or his agent carried on adequate prospecting operations on such area ; or
- (c) in his absolute discretion to the holder of a mining right in respect of any portion of the area of his right,

and he may in any case make such grant subject to such covenants and conditions as he may think fit and in particular may require the reasonable restoration of any area used for mining operations by the replacement of the surface soil, the filling in of worked areas, the removal of any tailing or other dumps or heaps caused by mining operations and such other methods as may reasonably be required and any such covenants and conditions may be general or in respect of any particular mining operation or method of mining.

(2) The Governor in his discretion may by order require the holder or grantee of any mining right or mining lease given or granted under the provisions of any repealed Ordinance, enactment or Proclamation reasonably to restore any area in respect of mining operations being or to be carried out on or after the date on which this Ordinance comes into operation and any such order may contain all or any of the provisions of the covenants and conditions which may so be imposed under the provisions of sub-section (1) and, upon due service of such order, the provisions thereof shall be deemed to be covenants and conditions of the lease or grant concerned.

Form F.

(3) A mining lease shall be in the Form F in the First Schedule.

(4) A mining lease shall specify the minerals which the lessee is entitled to mine within his lease, provided that the Governor,⁽¹⁾ if an applicant so desires, may add to or vary the minerals endorsed thereon.

Special
mining
leases.

34. (1) The Governor⁽²⁾ may offer and grant a special mining lease of any land if he is satisfied that by reason of the difficulties

⁽¹⁾ Power delegated to Chief Commissioner, Northern Provinces.

⁽²⁾ Power to prepare and execute a special mining lease, the grant and terms of which have been approved by the Governor delegated to Chief Commissioners and, in the absence of the Chief Commissioner from the headquarters of his group of provinces, the Secretary thereof.

Minerals

and cost attending the mining in, on, or under such land or for any other cause it is necessary that such a lease be granted.

(2) The Governor may fix the form of and the area to be comprised in any such special mining lease, the rent and royalty to be paid and the labour and other conditions, reservations and exceptions to be contained in the same but in all other respects such special mining lease and the application for the same shall be subject to the provisions of this Ordinance and the regulations.

35. (1) A mining lease shall not be granted to any person unless the Governor⁽¹⁾ is satisfied—

Technical supervision of mining under a mining lease.

- (a) that he possesses either adequate mining experience or qualifications in mining, or
- (b) that he will employ during the currency of the lease a person who possesses either adequate mining experience or qualifications in mining.

(2) Where a mining lease has been granted—

- (a) to a person who comes within paragraph (a) of sub-section (1) such lease shall remain in force during such time only as the lessee personally supervises or employs some person, who the Governor⁽¹⁾ is satisfied possesses adequate mining experience or qualifications in mining, personally to supervise the mining operations being undertaken under the lease, and in the latter event that such person does in fact so supervise the operations ;
- (b) to a person who comes within paragraph (b) of sub-section (1) such lease shall remain in force during such time only as the lessee employs some person who the Governor⁽¹⁾ is satisfied either possesses adequate mining experience, or qualifications in mining, personally to supervise the mining operations being undertaken under the lease and such person does in fact so supervise the operations :

Provided that where no person, who to the satisfaction of the Governor either possesses adequate mining experience or qualifications in mining, is available to supervise the mining operations being undertaken under a lease such lease shall not cease and determine if the Governor is satisfied :—

⁽¹⁾ Power delegated to Chief Commissioner, Northern Provinces.

(i) that the cessation of supervision is of a purely temporary nature, and either

(ii) that the operations cease until suitable supervision is again available, or

(iii) that the operations can continue without detriment to the mineral resources of Nigeria.

Duration of
lease

30. (1) A mining lease may be granted for such term not being more than twenty-one years as the Governor⁽¹⁾ may think proper.

Renewal

(2) If at the expiration of the term originally granted the lessee shall be carrying on work in a normal and business-like manner, and the mining lease is not at that time liable to be forfeited under any of the provisions of this Ordinance, and the lessee has given to the Chief Inspector six months' notice in writing in that behalf, then the lessee shall be entitled on payment of the prescribed fee and subject to the provisions of this section to obtain a renewal⁽¹⁾ of the lease for such term as may be approved, not exceeding twenty-one years, upon the conditions which are then applicable to new leases and subject to all covenants and conditions which may be imposed under the provisions of this Ordinance but shall not have the right to any subsequent further renewal of the lease.

Renewal of
mining lease

(3) The Governor⁽²⁾ in his discretion may direct a lessee who has applied for the renewal of a lease under the provisions of sub-section (2) to surrender any part of the area covered by such lease which has been worked out or is no longer reasonably required for mining operations and such direction being given such lease shall not be renewed until such surrender has been effected and if such surrender be not made within a reasonable time of the service of such direction the lessee shall lose the right to renew under the provisions of sub-section (2).

(4) When on the renewal of any mining lease it is considered desirable to correct any defects existing in the plan of the area of the said lease a corrected plan shall be made, and when endorsed on or attached to the lease shall be deemed to be the plan of such area.

⁽¹⁾ Power to define the duration of and renew a mining lease over an area not mentioned in this Ordinance delegated to Chief Commissioner, Northern Provinces.

⁽²⁾ Power delegated to Chief Commissioner, Northern Provinces.

Minerals

(5) A lessee who has given six months' notice in writing to the Chief Commissioner or such lesser period as the Governor⁽¹⁾ may accept, may surrender his mining lease in whole or, with the consent of the Governor, in part, on forwarding the original lease and on payment of all sums due in respect thereof and of all fees and charges prescribed for the surrender of a lease and on carrying out all obligations in respect of such leases.

(6) If part only of the area of a mining lease is to be surrendered, the lessee shall have the area surveyed into parts either by an agent of the lessee or by a Government surveyor, and in the latter case he shall deposit such a sum as may in the opinion of the Chief Commissioner be sufficient to cover the amount of all fees and charges incident to such surrender.

(7) When the part of the area to be retained has been surveyed a new mining lease shall be prepared for that part and on preparation thereof the lessee shall surrender the original lease in exchange for the new lease.

(8) Any such substituted mining lease may be subject to the same covenants and conditions as the original lease and to such other covenants and conditions as may be imposed under the provisions of this Ordinance.

(9) If the surrender has not been effected before the expiry of the notice, the Chief Commissioner may, unless he is satisfied that the delay is due to no fault of the applicant, treat the application as having lapsed.

(10) Any surrender which does not comply with any of the requirements of sub-sections (5) to (9) of this section shall be null and void.

(11) It shall be the duty of the applicant to obtain the consent of any parties who may have an interest in such mining lease before making an application to surrender in whole or in part.

(12) A surrender of a mining lease shall be in the Form G Form G. in the First Schedule or to the like effect.

37. There shall be implied in every mining lease, in the absence of any express condition to the contrary, the following covenants and conditions on the part of the lessee:— Implied conditions on part of lessee.

⁽¹⁾ Power to accept surrender of a mining lease delegated to the Chief Commissioner, Northern Provinces.

Minerals

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- (a) that the lessee shall duly pay the rent and any royalty that may become due to the Governor at such time and place and in such manner as may from time to time be prescribed, and to such persons as may from time to time be authorised to receive the same ;
 - (b) that the lessee shall duly maintain all beacons in good condition and repair and shall when so required by the Chief Inspector at each corner beacon and at each point where the boundary crosses any river, road or railway, keep the boundary lines for a distance of fifty yards in each direction cut and cleared of vegetation for a width of four feet and shall if required by an inspector clear of vegetation all or any of the boundary lines specified by him ; (*Amended by No. 35 of 1946.*)
 - (c) that, subject to the provisions of this Ordinance, the lessee shall commence mining operations in the area of the mining lease within a period of six months from the date of the lease, and shall thereafter during the continuance of the lease, unless prevented by circumstances beyond his control, continuously, vigorously and effectively carry on mining operations in such area ;
 - (d) that the lessee shall fulfil the working obligations prescribed by the regulations ;
 - (e) that the lessee shall carry on all his mining operations in a safe, orderly, skilful, efficient and workmanlike manner and shall not cause danger or damage to the occupiers (if any) of the lands within the area of the lease and shall observe and perform all regulations and orders made, and directions given, in accordance with the provisions of this Ordinance ;
 - (f) that the lessee shall not use any portion of the area included in his lease for any purpose other than those mentioned in section 39 ;
 - (g) that any of the persons mentioned in section 115 shall at all reasonable times have free access to the area of the lease and to all the workings therein ;
 - (h) that the lessee shall keep, or cause to be kept, plans and true and sufficient books of account of the mining carried on within the area of the lease, and of the disposal of the minerals won, and shall, if so required, produce or cause to be produced such plans and books for the inspection

Minerals

of an inspector or of any person duly authorised by him in that behalf; and

- (i) that the lessee shall take all due and proper precautions and shall comply with all requirements of mines officers as to the safety of all persons employed by him in mining operations.

38. A mining lease shall confer upon the lessee the right to enter upon the lands the subject of the lease, and, subject to the provisions of this Ordinance and the regulations, the exclusive right to mine in such lands and the right to remove and dispose of the minerals specified in the lease on payment of the prescribed royalties.

Rights of a lessee.

39. In so far as it may be necessary to a lessee or to the grantee of a temporary title under the provisions of section 26 for or in connexion with his mining operations and subject to the provisions of this Ordinance and to the regulations, the lessee or such grantee, who has complied with the provisions of this Ordinance relating to compensation and the payment of surface rent, shall have on the lands included in his mining lease or in the area over which a temporary title has been granted (as the case may be) the following rights:—

Surface rights of lessee.

- (a) to make all necessary excavations;
- (b) to erect, construct and maintain such houses and buildings as in the opinion of the Chief Inspector are necessary for his use and for the use of his agents and servants;
- (c) to erect, construct and maintain such engines, machinery, buildings and workshops and other erections as may be necessary or convenient;
- (d) to stack or dump any of the products of mining;
- (e) to lay water pipes and to make watercourses and ponds, dams and reservoirs;
- (f) to construct and maintain all such electrical transmission lines, tramways, railways, roads, landing grounds, communications and conveniences as may be necessary:

Provided that nothing in this section shall authorise the lessee or the grantee of a temporary title to make such alteration in the flow of water in any navigable waterway as would obstruct or interfere with or be likely to obstruct or interfere with the free and safe passage of any vessel, boat, canoe or other craft,

Surface
rents.

40. (1) The lessee of a mining lease shall pay rent (hereinafter called surface rent) at such rate *per annum* as shall be determined by the Governor for all land occupied or used by him for any of the purposes mentioned in section 39, or otherwise for or in connexion with his mining operations.

(2) The Governor shall, before granting a mining lease which includes any private land or Crown land, cause the owner or occupier of the land to be informed of his intention to grant such lease, and require the owner or occupier of the land to state in writing within such time as the Governor⁽¹⁾ may determine the rate of the annual surface rent which he desires shall be paid to him by the lessee for any land occupied or used by him for or in connexion with his mining operations.

If within the time specified the owner or occupier of the land shall state the rate of the rent which he desires shall be paid, and the Governor is satisfied that such rent is fair and reasonable, the surface rent payable in respect of the land of such owner or occupier shall be at the rate stated by him.

(3) Subject to the provisions of sub-section (2) the Governor⁽²⁾ shall fix the rate of the surface rent payable under this section and shall cause the lessee to be notified of the rate so fixed before or as soon as conveniently may be after the granting of the mining lease :

Provided that—

- (a) the rate of surface rent, whether fixed by the owner or occupier or by the Governor, shall be subject to revision by the Governor⁽²⁾ at intervals of seven years ;
- (b) in fixing the surface rent payable the Governor shall not take into consideration the damage which may be done to the surface of the land by the mining or other operations of the lessee, for which compensation is payable under section 74.

(4) The surface rent payable under this section by a lessee shall be paid without demand annually in advance to the prescribed officer who shall pay out of the rent received any rent payable to the owner of the private land or to the occupier under a Crown lease.

⁽¹⁾ Power delegated to Residents.

⁽²⁾ Power delegated to Chief Commissioners.

Minerals

(5) If any question shall arise as to the extent of the lands occupied or used by a lessee, or as to the date on which he commenced or ceased to occupy or use any land, or as to the proportion of the surface rents payable to the persons entitled to receive any portion thereof, the decision of the Resident of the province shall be final and binding on all persons, subject only to an appeal to the Governor.

(6) All expenses incurred by the Government in surveying, measuring or otherwise ascertaining the extent of the land in respect of which surface rent is payable under this section shall be paid by the lessee.

(7) If in any case it is in the opinion of the Governor⁽¹⁾ impracticable or undesirable to determine the extent of the lands occupied or used by a mining lessee he may permit the lessee to pay surface rent at such rate as he may determine over the whole area of his lease, but in such case the proviso to section 74 shall not apply.

(8) Where the Governor permits a surface rent to be paid over the whole area of a lease under the provisions of sub-section (7) it shall not be lawful for the holder of such mining lease to disturb the owners or occupiers of any part of the land included within such lease during the course of mining operations until the land is actually required for any of the purposes set out in section 39.

41. A lessee may, on the lands included within the area of his mining lease, cut, take and use any tree when necessary in the course of mining operations or when required for mining or domestic purposes, provided that he shall not cut or take any protected tree except with the consent of the proper forestry officer and on payment of the fees and royalties prescribed under the Forestry Ordinance.

Right of
lessee to take
timber.

Cap. 75.

The owner of any protected tree cut or taken shall be entitled to the royalties payable in respect of such tree, and in the case of any other tree cut or taken such compensation as may be agreed upon between the owner and lessee, or in default of agreement, as may be determined in the manner prescribed in section 75 :

Provided, however, that a lessee shall not be liable to pay compensation in respect of any tree other than a protected tree

(1) Power delegated to Chief Commissioner, Northern Provinces.

or an economic tree taken on land in respect of which he is paying surface rent under section 40.

Compensation to be paid by lessee on revocation of a certificate of occupancy or on resumption of lands leased by the Crown.

42. (1) Whenever, by reason of the grant or existence of a mining lease, the Governor revokes a right of occupancy over land the subject of a certificate of occupancy or resumes possession of any lands occupied under a Crown lease the mining lessee shall pay to the Government the amount of the compensation paid by the Government to the holder of the certificate of occupancy or to the Crown lessee by reason of the revocation or resumption of possession as the case may be.

Rights under Crown leases and certificate of occupancy granted after a mining lease.

(2) Whenever, after the grant of a mining lease a Crown lease or certificate of occupancy shall be granted in respect of any land included within the area of the mining lease and not occupied prior to the grant of the mining lease, the Crown lessee or holder of the certificate of occupancy shall not be entitled to compensation under section 74.

Right of lessee to remove fixtures.

43. (1) The lessee of a mining lease who shall have paid all rents, royalties and other payments to be made by him under this Ordinance or under the terms of his lease may, within three months in the case of an alluvial lease and six months in the case of a lode lease after the expiration or other determination of his lease, remove all or any of the plant, buildings or other property of the lessee.

When property of the lessee becomes vested in the Government.

(2) In the case of any lessee who on the expiration or determination of his mining lease is in default in the payment of any rent, royalties or other payments, and in the case of a lessee who has not removed his property within three months in the case of an alluvial lease and six months in the case of a lode lease as aforesaid or within such further time, if any, as the Governor⁽¹⁾ may allow, all the plant, buildings and property of the lessee on the land the subject of the lease shall become the property of the Government and may be dealt with and disposed of in such manner as the Governor may direct.

Acceptance of rent not to act as a waiver of forfeiture.

44. The acceptance by or on behalf of the Crown of any rent shall not be held to operate as a waiver by the Crown of any forfeiture accruing by reason of the breach of any of the provisions of this Ordinance, of the regulations or of any covenant or condition, express or implied, in any lease granted

⁽¹⁾ Power delegated to Chief Commissioners,

Minerals

under this Ordinance or under any previous Ordinance or Proclamation.

PART IV

PROVISIONS REGARDING WATER

45. No person shall in the course of mining or prospecting operations or in any works connected therewith pollute or permit to become polluted the water of any watercourse. Pollution of watercourse prohibited.

46. Every person who uses water in connexion with mining operations, whether for the generation of power or for the removal of mineral substances or for concentrating, milling or otherwise, shall, whatever may be the nature and date of the document of title under which such use is enjoyed, make such provisions as will ensure that all water so used shall not contain injurious substance in quantities likely to prove detrimental to animal or vegetable life when it leaves the mining area in which it has been so used. Purification of water.

47. (1) No lessee or holder of a mining right shall, without permission, deposit a greater quantity of tailing in any natural watercourse than that prescribed by the regulations. Deposit of tailing.

(2) On the application of any mining lessee or holder of a mining right, and on good cause being shown, the Governor⁽¹⁾ may grant permits authorising the deposit of greater quantities of tailing than that prescribed by the regulations and may make the grant subject to such conditions as he may deem necessary. Such conditions shall be endorsed on the permit.

(3) Every permit granted in accordance with the provisions of the preceding sub-section shall be in Form J in the First Schedule and shall specify the maximum amount of tailing which may be deposited in a natural watercourse by the holder thereof. Form J.

(4) The Governor⁽¹⁾ may revoke, or vary the conditions of, any permit granted under this section if the holder shall commit a breach of any of the conditions of his permit.

48. (1) No person shall make or permit any other person to make, without the permission of the Governor,⁽¹⁾ any such alterations in the water supply of any lands as may prejudicially affect the water supply enjoyed by any other person or lands. Alterations in water supply prohibited.

⁽¹⁾ Power delegated to Chief Commissioners.

Minerals

(2) Whenever any such alteration has been made the lessee or the holder of the right benefited thereby shall, in the absence of proof to the contrary, be presumed to have made it.

Action to be taken to prevent continuance or recurrence of offence.

49. Any person who offends against any of the provisions of any of the last four preceding sections may, by order in writing, be required to take such action as may be directed to prevent a continuance or recurrence of the offence and within such time as may be directed in the order. Such order may be made by the Governor⁽¹⁾ or by such officer as may be prescribed.

Restoration of river banks.

50. (1) Any person who in the course of mining operations unlawfully interferes with the bank of any watercourse may, by written order, be required to restore the same to the condition in which it was immediately prior to such interference or to remake the same in such manner as may be specified in the order.

(2) Such orders may be made by the Chief Commissioner in the case of watercourses or parts thereof as to which the Governor may have notified in the Gazette that orders under this section shall only be made by the Chief Commissioner; in other cases orders under this section may be made by the Chief Inspector.

Water Licences

Grant of a water licence.

51. If it shall appear necessary for the proper working of the area of any mining lease, or of the area covered by more than one mining lease held by the same lessee, or the area covered by an application by him for another mining lease or other mining leases and in respect of which he has been granted a temporary title under section 26, the Governor⁽²⁾ may, on such terms as he may think fit, grant to the lessee or grantee of a temporary title a licence hereinafter referred to as a water licence—

(a) to obtain and convey to the area of his lease or leases or to any area the subject of a right of occupancy held by the lessee, such volume of water as may be required for the purpose of his mining operations;

(b) to occupy such land as may be required for a dam, reservoir or pumping station and for the conveyance of

⁽¹⁾ Power delegated to Chief Commissioners.

⁽²⁾ Power to grant a water licence delegated to Chief Commissioners and to prepare and execute a water licence where the grant of such licence has been approved by the Governor or a Chief Commissioner, delegated to Chief Commissioners and, in the absence of the Chief Commissioner from the headquarters of his group of provinces, the Secretary thereof.

Minerals

such water to the area of his lease or leases by means of pipes, ducts, flumes, furrows or otherwise ; and

- (c) to construct any works necessary for the collection, storage or conveyance of such water :

Provided always that—

(i) no water licence shall be granted until after the expiration of one month from the date on which notice of the application for it has been published in the Gazette and posted in a conspicuous place at the office of the Chief Inspector ;

(ii) no water licence shall be granted if it is shown to the satisfaction of the Governor that the exercise thereof will prejudicially affect any existing right in or over the water supply to which it relates, unless the applicant shall pay to the person whose rights will be prejudicially affected such compensation as may be agreed upon between the parties or as may be determined by arbitration ;

(iii) the provisions of sections 12, 40 and 74, and the provisions of sub-sections (1) to (3) of section 75 shall apply *mutatis mutandis* to every water licence granted under this section except that no surface rent will be levied in the Northern Provinces on any area of land used for the purposes of a leat.

52. Pending the grant of a water licence for which application has been made the Governor⁽¹⁾ may grant to the applicant on such terms as he thinks fit prior permission to exercise and enjoy the powers and rights for which such application has been made :

Prior permission to dig a leat or use water.

Provided always that no such prior permission to use water shall be granted until after the expiration of one month from the date on which notice of the application has been published and posted in accordance with proviso (i) of section 51 :

Provided further that the provisions of this Ordinance and the regulations which are applicable to water licences shall apply to such prior permission.

53. (1) When a person has made application for a lease in respect of any area and it appears that, in the event of such lease being granted, the grant of a water licence under this section

Power to grant water licence in anticipation of issue of lease.

(1) Power delegated to Chief Inspector of Mines.

will be necessary for the proper working of the area, the Governor⁽¹⁾ may, on such terms as he may think proper, grant to the applicant a provisional water licence under this section.

Such provisional water licence—

- (a) shall not become operative unless and until a lease over the said area shall be granted to the applicant :

Provided that, if the applicant has been granted a temporary title under section 26 to mine on the area prior to the grant of the lease, the Governor⁽²⁾ may, subject to such terms as he thinks fit, permit such provisional water licence to become operative at any time after the expiration of one month from the date on which notice of the application for it has been published and posted as prescribed ;

- (b) shall be subject to the provisions set out in section 51, save that the payment of compensation required by proviso (ii) shall not be required to be made prior to the granting of the provisional water licence ;

- (c) shall become operative and have the same force and effect as a water licence granted under section 51 upon the applicant paying the compensation set out in proviso (ii) to section 51 and receiving a grant of a lease over the said area.

(2) The provisions of section 52 shall apply *mutatis mutandis* to a provisional water licence.

Amendment
of water
licence.

54. A water licence may be amended on application by the holder at any time by the Governor⁽²⁾ in respect of—

- (a) the volume of water which may be diverted ;
(b) the leases to be served ; or
(c) the name of the holder,

by endorsement thereon provided that no such endorsement shall be made in respect of an increase in the volume of water to be diverted unless notice of such application has been given in the manner provided in proviso (i) to section 51 and no objections have been received.

(¹) Power to grant a provisional water licence delegated to Chief Commissioners and to prepare and execute a provisional water licence where the grant has been approved by the Chief Commissioner, delegated to Chief Commissioners and, in the absence of the Chief Commissioner from the headquarters of his group of provinces, the Secretary thereof.

(²) Power delegated to Chief Commissioners.

Minerals

55. It shall be the duty of every applicant for a water licence to reach agreement with all persons likely to be adversely affected by the grant of such water licence at or before the time of making his application and to inform the Chief Inspector of any conditions which such persons may desire to be incorporated as conditions in the water licence.

Agreement of other interested parties.

56. A water licence shall remain in force during the life of the mining leases which it serves and any renewals thereof.

Duration of water licence.

57. A water licence shall be in the Form I in the First Schedule.

Form of water licence Form I.

58. (1) The holder of a water licence desiring to transfer his licence shall apply to the Governor⁽¹⁾ who, if satisfied that the leases which the water licence serves have been transferred, may consent to the transfer of the licence and endorse it accordingly.

Transfer.

(2) The transferee of a water licence shall be liable for all rents and obligations which may have accrued at the time of transfer.

59. A water licence may, upon application being made, be cancelled by the Governor⁽¹⁾ at any time subject to the following conditions :—

Cancellation of water licence.

- (a) that the holder of such licence shall give notice in writing to the Chief Inspector ;
- (b) that such cancellation shall not affect any liability incurred by the holder before such cancellation shall have taken effect ;
- (c) that all rents due and fees prescribed (if any) upon such cancellation are paid ;
- (d) that the original licence is forwarded for cancellation.

60. The Governor⁽¹⁾ may require a person to whom a water licence has been granted under section 51 to permit any other lessee to take from the water supply obtained under the water licence any water which is not required by the holder of the water licence, subject to such terms and conditions as to the Governor may appear just, and may grant to such other lessee a water licence to construct and maintain any pump, pipes, ducts, flumes or furrows as may be necessary to convey such water to the area of his lease.

Powers of Governor as regards ove. flow.

⁽¹⁾ Power delegated to Chief Commissioners.

A water licence may be subject to terms and conditions.

61. A water licence shall be granted on such terms as the Governor⁽¹⁾ may think proper, and subject to the provisions of sections 51 to 53.

PART V

SURVEYS

When survey required.

62. Before granting a mining lease, mining right or an exclusive prospecting licence, the Governor⁽¹⁾ shall and before granting a water licence the Governor⁽¹⁾ may require the area of the land to be included to be surveyed in accordance with the provisions of the Survey Ordinance and the cost of such survey shall be paid by the person applying for the lease, right or licence in accordance with the prescribed scale :

Cap. 212.

Provided that in the case of an exclusive prospecting licence the area may be exempted from survey by the Governor.

Time for completion.

63. When the survey prescribed by the last preceding section is performed by a licensed surveyor it shall be completed within such period as may be prescribed by the regulations and when any such survey is performed by a Government surveyor such Government surveyor shall, for the purposes of such survey, be deemed to be the servant and agent of the applicant.

PART VI

POSSESSION AND PURCHASE OF MINERALS

Exemption.

64. The provisions of this Part shall not apply to *bona fide* specimens of mineralogical, geological or educational interest or to the receipt by an employer of minerals from his tributers.

Meaning of "minerals" for purposes of sections 64 to 72.

65. For the purposes of the provisions of this Part, the term "minerals" shall mean ore of tin, columbium, tantalum and tungsten and shall include any other minerals to which the Governor may, by notice in the Gazette, apply this Part.

Possession of minerals.

66. No person shall possess any minerals unless he is the lessee of a mining lease, or the grantee of a temporary mining title, a mining right, exclusive prospecting licence, prospecting right, or a licence granted under section 68 or is the duly authorised employee of such lessee or holder.

Purchase minerals.

67. No person shall purchase any minerals unless he is the holder of a licence granted under the next succeeding section.

(¹) Power delegated to Chief Commissioners.

Minerals

68. (1) The Chief Inspector may, on payment of the prescribed fee, issue a licence in Form K in the First Schedule authorising the person named therein to purchase minerals.

Licence to purchase minerals.
Form K.

(2) Every such licence shall continue in force for one year from the date thereof.

(3) A licence to purchase minerals shall not be transferred without the consent of the Chief Inspector.

69. No person shall sell any minerals unless he has first satisfied himself that the purchaser is the holder of a licence to purchase such minerals.

Duty of seller of minerals to satisfy himself that purchaser is licensed to buy.

70. The holder of a licence to purchase minerals shall not purchase any minerals unless he has first satisfied himself that the vendor is authorised to be in possession of such minerals and to dispose of the same.

Holder of licence to satisfy himself that the seller is authorised to possess and dispose of minerals.

71. The holder of a licence to purchase minerals shall :—

Duty of licensee.

(a) keep books showing—

(i) all purchases made by him and the nature and weight of the minerals purchased ;

(ii) the date of each purchase ;

(iii) the name of the vendor and his title or authority to be in possession and to dispose of the minerals ;

(iv) details of the means of disposal of the minerals after purchase by the licensee ; and

(b) produce such books for the inspection of any administrative, mines or police officer whenever required to do so.

72. The holder of a licence who commits any breach of the provisions of either of the two last preceding sections or of the conditions of his licence shall be liable to have the licence cancelled in addition to the penalties prescribed by section 102.

Penalties.

PART VII

COMPENSATION

73. (1) The Governor⁽¹⁾ may either of his own accord or when so requested by any interested party before granting to any

Governor or Resident or owner or

¹⁾ Power delegated to Chief Commissioners.

occupier
may require
security.

person a prospecting right, exclusive prospecting licence, mining right or mining lease require that person to give security by depositing with the Government such sum as may be prescribed or if not prescribed, as the Resident of the province may direct for the payment of the compensation prescribed in this Part.

(2) A Resident or the owner or occupier of any private land or of any land held under a Crown lease or the subject of a right of occupancy may require any holder of a prospecting right or exclusive prospecting licence intending to prospect on any such land to give the security prescribed in sub-section (1) of this section.

Form L.

(3) The Governor⁽¹⁾ may accept a banker's guarantee in the Form L in the First Schedule in lieu of the deposit prescribed by this section.

Compensation to be paid.

74. Any person prospecting or mining shall, in addition to any other amounts payable under the provisions of this Ordinance, pay the owner or occupier of private land or the occupier of land held under a Crown lease or the subject of a right of occupancy such sums as may be a fair and reasonable compensation for any disturbance of the surface rights of such owner or occupier and for any damage done to the surface of the land upon which his prospecting or mining is being or has been carried on and shall in addition pay to the owner of any crops, economic trees, buildings or works damaged, removed or destroyed by him or by any agent or servant of his compensation for such damage, removal or destruction :

Provided that the holder of a mining right or the lessee of a mining lease who is paying surface rent in respect of any private land included within the area of his right or lease shall not be liable to pay compensation in respect of any building erected, economic tree or crops planted or works constructed on such land after the date on which surface rent began to be payable.

Assessment of compensation.

75. (1) The amount of the compensation payable under the provisions of this Part shall, except in a congested area, be determined by agreement between the parties or if the parties are unable to reach agreement, by the divisional or district officer who shall as soon as possible assess and determine the amount of the compensation payable at the date of such assessment and shall notify the parties of the sum awarded. The decision of

⁽¹⁾ Power delegated to Chief Commissioners.

Minerals

such officer shall be final and binding on all parties subject only to an appeal to the Governor whose decision shall be final unless he directs that the matters in dispute be determined by arbitration. Notice of such appeal shall be given to the officer concerned within fourteen days of the date on which his decision is notified to the party desiring to appeal :

Provided that the Resident may direct that in such areas as he may specify the divisional or district officer shall negotiate on behalf of any person or community to whom compensation is due.

(2) In a congested area the amount of compensation shall be determined by the divisional or district officer and there shall be the same right of appeal to the Governor as in the case of other areas.

(3) The compensation as finally determined shall be paid by the person liable within fourteen days of the date on which the amount of the compensation is notified to him. The payment shall be made to the officer concerned for transmission to the persons entitled thereto.

(4) If the compensation is not paid within the time prescribed by the last preceding sub-section the owner or occupier may notify the officer concerned of such non-payment, and such officer may direct payment of such sum to the owner or occupier out of any money deposited by the person liable under section 73.

76. In the case of the holder of a prospecting right or exclusive prospecting licence, the Governor may suspend the prospecting right or exclusive prospecting licence of the person in default until the amount awarded has been paid and until the holder of the right or licence has deposited with the Government such further sum as security for any future payment as the Governor may demand, and if such payment and deposit is not made within such time as the Governor may consider reasonable he may revoke the prospecting right or exclusive prospecting licence of the person in default.

Suspension and revocation of prospecting right or exclusive prospecting licence for non-payment of compensation.

77. It shall be an implied condition of every exclusive prospecting licence, mining right or mining lease that the holder thereof shall pay the compensation prescribed in this Part to the owner or occupier of the land included within such licence, right or lease.

Payment of compensation an implied condition.

PART VIII

APPOINTMENT, DUTIES AND POWERS OF MINES OFFICERS

Appointment
and duties of
mines
officers.

78. (1) The Governor may from time to time appoint a chief inspector, inspectors and such other officers as he may consider necessary for carrying out the purposes of this Ordinance.

(2) The duties and powers of the said officers shall be those assigned to them respectively by this Ordinance and the regulations.

(3) Any of the powers vested in an inspector by this Ordinance may be exercised by the Chief Inspector.

Duties of
the Chief
Inspector.

79. In addition to any other duties prescribed by this Ordinance the Chief Inspector shall—

- (a) exercise general supervision over all mining and prospecting operations in Nigeria ;
- (b) prepare and render such records, reports and returns as may be prescribed by the regulations or which may be required by the Governor ; and
- (c) take into his custody any minerals declared by any court to be forfeited to the Crown ; dispose of such minerals by sale and, after such sale, account for the proceeds.

Duties of
mines
officers.

80. The duties of mines officers shall, subject to the provisions of this Ordinance and the regulations, be defined by the Chief Inspector.

Powers of
mines
officers.

81. Any mines officer may—

- (a) arrest without warrant any person whom he may find committing, or whom he reasonably suspects of having committed, any offence against this Ordinance or the regulations :

Provided that the person arrested shall be taken, with as little delay as possible, before a magistrate to be dealt with according to law ;

- (b) by notice in writing require any lessee, holder of a mining right, or any person employed by such lessee or holder, to appear before him at any reasonable time and place and give such information regarding mining operations in or about the area of the mining lease or mining right as he may possess, and every such lessee, holder or other person shall be legally bound to comply with such notice and to give such information ;

Minerals

- (c) by order in writing suspend work in the area, or any part thereof, comprised in any mining lease, mining right or exclusive prospecting licence, until such arrangements shall have been made as are in his opinion necessary to prevent danger to life or property; and
- (d) cancel or vary the terms of any such notice or order.

PART IX

ROADS

82. (1) No person in the course of prospecting or mining operations under this Ordinance shall construct a road over, on or under—

- (a) any Crown land, other than that comprised within his mining lease or mining right, without the consent first obtained of the Commissioner of Lands; Construction of road.
On Crown land.
- (b) any native lands, other than those comprised within his mining lease or mining right, without the consent first obtained of the Chief Commissioner; On native lands.
- (c) the area covered by any part of a mining lease or mining right (other than his own) or any area in respect of which an application for a lease or right (other than his own) has been made and a temporary title has been granted under section 26 without first— On the area of leases or mining rights granted to other persons.
- (i) giving notice in writing to the lessee or holder or applicant; and
- (ii) obtaining the consent of the Chief Commissioner;
- (d) any private land not being the subject of any mining title without the prior consent of the owner or occupier. On private lands.

(2) For the purposes of this section "roads" includes tramways and railways. Definition.

83. No person who has constructed a road in accordance with the provisions of the preceding section shall hinder or prevent any other person from having access to or using such road: Use of mining road

Provided that—

- (a) where any person uses such road in such a manner as, in the opinion of the person who constructed such road, to do appreciable damage thereto or to enhance substantially the cost of upkeep thereof, the person who constructed such road may call upon such user to contribute to the cost of upkeep;

- (b) where any person uses such road in such a manner as to interfere materially with the free use and enjoyment of such road by the person who constructed the road, the person who constructed such road may call upon such user to limit his use of the road so as to cause a cessation of such interference ;
- (c) a person who has constructed a road over any part of the area covered by a mining lease or a mining right under section 82 may be required by the lessee or holder of the mining lease or mining right (wishing to mine the area covered by the said road) to deviate the same to some other position on the said lease or right. In such case, the cost of the deviation shall be borne by the person who constructed the said road.

No obstruction of a public road.

84. No person in the course of prospecting or mining operations under this Ordinance shall impede or obstruct the right of way over any public road.

PART X

INQUIRY INTO ACCIDENTS

Accidents to be reported.

85. If any accident shall occur in any mine or in connexion with the mining or prospecting operations conducted under a lease, temporary title, right or licence granted under this Ordinance involving loss of life or serious injury to any person, the lessee or the holder of the right or licence shall report the same as soon as possible with full particulars to the nearest mines officer, and if there is no mines officer in the province in which the accident has occurred, to the Chief Inspector.

Chief Inspector to decide if inquiry shall be held by Mines Department in certain cases.

86. If upon receipt of the report and after such further investigation, if any, as he may think fit it shall appear to the Chief Inspector or the mines officer as the case may be that there is reason to believe that the accident was due to any failure to comply with the provisions of the Ordinance, or of any regulations made thereunder, or to the neglect of any lawful order given by the Chief Inspector or mines officer and the Chief Inspector or mines officer is not satisfied that the accident might not have been prevented if proper precautions had been taken and observed in the prospecting or working of the land the Chief Inspector or the mines officer shall then, as soon as conveniently may be, hold an inquiry into the cause thereof.

Minerals

87. If in the opinion of the Chief Inspector such accident was not attributable to any of the causes referred to in section 86 he may direct that the report shall be referred to the nearest magistrate who shall hold an inquiry into the cause thereof. The magistrate shall within fourteen days of the termination of the inquiry send a copy of his findings to the Chief Inspector and, if so requested, a copy of the record of the proceedings.

*Inquiry by
magistrate.*

88. (1) In any such inquiry the officer holding the inquiry shall first determine—

*Procedure
on inquiry.*

- (a) whether the person killed or injured was a tributer at the time of the accident; and
- (b) whether the lessee or holder of the right, temporary title or licence or any agent of such lessee or holder has been guilty of negligence or has not taken all reasonable and proper precautions to prevent such accident; and
- (c) whether the person killed or injured is a person working in the mine or in connexion with the mining or prospecting operations at the time of the accident and whether the accident involving the death or injury is attributable to the serious and wilful misconduct of the person so killed or injured or of other persons working in common with the person so killed or injured.

(2) Where the officer holding the inquiry under the provisions of this section finds a person to have been or not to have been a tributer at the time of the accident such person shall have a right of appeal against such decision to a judge of the Supreme Court on lodging notice of appeal in the court within fourteen days of the date on which he had notice of such decision and the appropriate court shall decide whether or not such person was a tributer at the time of the accident, and where the officer so holding an inquiry finds that the person is not a tributer he shall direct the attention of such person to the provisions of the Workmen's Compensation Ordinance and shall in any case inform such person or tributer of his right to appeal and shall explain the consequences of any such decision.

*Right of
appeal
against
finding as to
whether or
not such
person was a
tributer.*

Cap. 234.

89. If the officer holding the inquiry finds that a person so killed or injured was a tributer at the time of the accident and that the accident involving the death or injury was not attributable to the serious and wilful misconduct of such tributer so killed or injured nor to the serious and wilful misconduct of other persons

*Award of
compensa-
tion.*

working in common with the tributer so killed or injured he may award such compensation to the relatives of the deceased tributer or to the injured tributer as he may deem to be just.

Where accident attributable to misconduct of tributer or other persons working in common.

90. Where the officer holding the inquiry finds that the accident involving the death or injury was attributable to the serious and wilful misconduct of the tributer so killed or injured or the serious and wilful misconduct of other persons working in common with such tributer he shall not make such award :

Provided that if such injury results in death or serious and permanent incapacity he may award such compensation as he may deem just having regard to the circumstances.

Order for payment in one lump sum or in instalments.

91. Where an officer holding an inquiry makes an award to the relatives of a tributer or to a tributer he may order that the sum payable be paid in one lump sum, or be payable in instalments and may fix the times of payment of such instalments or may order that the sum awarded be expended for the benefit of the relatives of the tributer or of the tributer in the discretion of any person named in his award :

Provided that where the officer holding the inquiry makes an award under section 89 or under this section and on appeal it is held that the person so killed or injured was not a tributer at the time of the accident, any such award shall be deemed to be null and void and where the officer holding the inquiry has found a person so killed or injured not to have been a tributer at the time of the accident and such person appeals as in section 88 provided then if the court holds such person to have been a tributer at the time of the accident, on receipt of such judgment the officer who held the inquiry or his successor in office shall reopen the inquiry and proceed to make an award.

Refusal to accept amount of compensation and appeal to Governor by person ordered to pay.

92. If the tributer to whom such compensation is awarded is unwilling to accept the amount of the compensation awarded in full settlement of all claims which he may have by reason of the accident against the person ordered to pay the same, he may refuse to accept the same and take such proceedings against such person as he may think fit or if the person who is ordered to pay compensation is dissatisfied with the decision of the officer who has held the inquiry, he may within fourteen days of the date on which he has notice of the award or notice that the person to whom compensation has been awarded will accept the same whichever date be the later, appeal to the Governor whose decision shall be final :

Minerals

Provided that the Governor instead of giving such decision may, if he thinks fit, direct that the matter in dispute shall be determined by arbitration or by action in a court.

93. Where no appeal has been made to the Governor within the time limit provided in section 92 or if there having been an appeal compensation is awarded, the person directed to pay compensation shall pay the amount awarded to the officer who held the inquiry or his successor in office for transmission to the tributer or the dependants entitled thereto and if the same is not paid within one month or within such further time as the Governor may think reasonable, the Governor may, after notice to the lessee or holder of the temporary title, right or licence, revoke his lease, title, right or licence :

Payment of compensation.

Provided that nothing contained in sections 85 to 93 shall relieve any person from the liability to be proceeded against for any offence committed by him, and provided further that nothing in the said sections contained shall operate to debar any person, not being a tributer or the dependant of any such tributer from taking any proceedings against any person in respect of an accident coming within the provisions of these sections, as he may think fit.

Proviso as to sections 85 to 93.

94. Where any sum is due on an award made under the provisions of section 89 the tributer to whom such sum is due or the dependants entitled thereto or the officer who held the inquiry or his successor in office may lodge a certified copy of the decision under which such sum is so due in the court having jurisdiction and such sum may be recovered by process of law as if the decision under which such sum is due were a judgment of such court.

Sum due on award under section 89 may be recovered as if decision were judgment of court.

95. (1) The officer holding the inquiry shall, for the purpose of any inquiry under section 86 or 87, have the powers of a magistrate to summon witnesses, to call for the production of books and documents and examine witnesses and parties concerned on oath. All summonses may be in the Form M in the First Schedule and shall be served by the police or by such person as the officer issuing the same may direct.

Power to summon witnesses.

Form M.

(2) Any person summoned to attend or to produce books or documents, as aforesaid, and refusing or neglecting to do so, or refusing to answer any question put to him by or with the concurrence of the officer holding the inquiry, shall be liable on summary conviction to a fine of fifty pounds :

Provided that no person shall be bound to incriminate himself, and every witness shall, in respect of any evidence given by him at such inquiry, be entitled to the same privileges to which he would have been entitled if giving evidence before a court of justice.

Expenses of witnesses.

(3) Witnesses attending at the request of or upon summons by an officer holding such inquiry shall, subject to any order made by such officer, be entitled to the like expenses as if summoned to attend the court of a magistrate and payment shall be made in the same manner as if such person were a witness in a criminal trial.

Definition. "serious injury".

96. For the purposes of this Part—
"serious injury" means an injury which incapacitates the injured person from working for a period of at least one week.

PART XI

OFFENCES AND PENALTIES

Salting.

97. Any person who shall place or deposit or be an accessory to the placing or depositing of any metal ore or mineral in any spot or place for the purpose of misleading any person as to the nature, quality or quantity of the mineral naturally occurring at such spot or place, or who shall mingle or cause to be mingled with any sample of metal, mineral or ore, any valuable metal or any substance whatsoever which will increase or decrease the value or in any way change the nature of the said metal, mineral or ore, with intention to defraud any person, shall be guilty of a felony and shall on conviction be liable to a fine of five hundred pounds or to imprisonment for five years or to both such fine and imprisonment.

Fraud by applicant for exclusive prospecting licence or mining right or lease.

98. Any person who represents that he has obtained the grant of an exclusive prospecting licence, mining right, temporary title, or mining lease, and thereby induces or attempts to induce any person to invest capital in any company or syndicate connected therewith, before he has obtained the grant of such exclusive prospecting licence, mining right, temporary title or mining lease, shall be liable to forfeit any claim to the grant of such exclusive prospecting licence or mining right or mining lease, and if he be already the holder of a prospecting right or an exclusive prospecting licence, mining right, temporary title or mining lease, shall be liable to have his licence or mining right or mining lease revoked :

Minerals

Provided that nothing in this section shall relieve any person from liability to civil action or a criminal prosecution in respect of the said representation.

99. Any person who without lawful authority shall wilfully break, deface or remove, or in any other way interfere with any boundary mark, beacon, pillar or post erected for any of the purposes of this Ordinance or the regulations shall be guilty of an offence. Penalty for injuring boundary marks.

100. Any person who wilfully or recklessly gives false information as to any of the matters in respect of which information is required to be given under this Ordinance or the regulations shall be guilty of an offence. Wilfully or recklessly giving false information.

101. Any person who :—

- (a) interferes with any mining or prospecting operations authorised by or under this Ordinance ;
- (b) obstructs any person in the exercise of any right conferred by or under this Ordinance ;
- (c) interferes with any machinery, plant, works or property established on, in, under or over any land in exercise of a right conferred by or under this Ordinance,

shall be guilty of an offence.

102. (1) Any person who commits a breach of any of the provisions of section 3, 4, 16 (2), 45 or 48 (1) shall be guilty of an offence and on conviction shall be liable to a fine of one hundred pounds or to imprisonment for twelve months or to both such fine and imprisonment and, in the case of any breach of section 3 or 4, shall forfeit all minerals obtained or, if such minerals cannot be forfeited, shall pay such sum as the court shall assess as the value of such minerals. Penalties.

(2) Any person who continues to commit a breach of section 45 after conviction shall be liable to a fine of five pounds for each day during which the offence continues.

(3) Any person who commits a breach of any of the provisions of this Ordinance or the regulations for which breach a penalty is not expressly provided shall on conviction be liable to a fine of fifty pounds or to imprisonment for six months or to both such fine and imprisonment.

103. Any offence against this Ordinance and the regulations may be tried summarily by a magistrate. Summary trial.

Liability of employer for offences committed by his servants.

104. Whenever it is proved to the satisfaction of any court having jurisdiction that an offence against this Ordinance has been committed by any miner, workman or other person employed by the holder of any licence, right, temporary title or lease granted under this Ordinance, such holder shall be held to be liable for such offence and to the penalty provided therefor, unless he proves to the satisfaction of such court that the offence was committed without his knowledge or consent and that he had taken all reasonable means to prevent the commission of the offence:

Provided that nothing in this section contained shall be deemed to exempt such miner, workman or other person from the penalties provided for the offence committed by him.

PART XII

REVOCATION OF TITLES

Saving.

105. Nothing in this Part shall be deemed to restrict or to derogate from any other powers of the Governor in relation to the forfeiture or revocation of licences, rights, temporary titles or leases whether such powers are conferred by this Ordinance or by any other written law.

Power to revoke a prospecting right.

106. If any holder of a prospecting right or any attorney, agent or employee of such holder is convicted by a court of competent jurisdiction of a felony or of an offence against the provisions of this Ordinance or of any of the Ordinances or regulations set out in the Second Schedule to this Ordinance the Governor⁽¹⁾ may summarily revoke his prospecting right.

Second Schedule.

Power to revoke exclusive prospecting licence, mining right, mining lease, water licence or temporary title.

Second Schedule.

107. The Governor may in his absolute discretion revoke any exclusive prospecting licence, mining right, mining lease or water licence in the following cases, that is to say:—

- (a) if the holder or lessee or any attorney, partner, agent or employee of such holder or lessee is convicted by a court of competent jurisdiction of a felony or an offence against the provisions of this Ordinance or of any of the Ordinances or regulations set out in the Second Schedule to this Ordinance; or
- (b) if the holder or lessee or any attorney, partner, agent or employee of such holder or lessee commits any breach of the provisions of this Ordinance or of the terms or conditions whether express or implied of his licence, right or

⁽¹⁾ Power delegated to Chief Inspector of Mines.

Minerals

lease, not amounting to an offence against this Ordinance, and if, on being called upon by the Chief Inspector to show cause within a time specified why his licence, right or lease should not be revoked, he fails to comply with such order or if the cause shown is in the opinion of the Governor inadequate; or

- (c) subject to the provisions of this Ordinance in the case of a mining lease, if the lessee wholly discontinues operations under his lease during a continuous period of six months; or
- (d) if the exclusive prospecting licence, mining right, mining lease or water licence has been granted or given in error whether such error relates to the area or to the boundaries or to any other matter whatsoever.

(Amended by No. 35 of 1946.)

108. The Governor in Council may by order vary or add to the Second Schedule to this Ordinance.

Power to vary or add to Second Schedule.

109. A notice sent to the last known address of the holder, grantee or lessee or his attorney in Nigeria or published in the Gazette shall be for all purposes sufficient notice to the holder, grantee or lessee of the revocation of his licence, right, temporary title or lease.

Service of notice.

110. Any such revocation shall be without prejudice to any claim against the lessee or holder which may already have accrued to the Crown.

Saving.

PART XIII

MISCELLANEOUS

111. All exclusive prospecting licences, mining rights, temporary titles or mining leases shall be bounded by vertical planes from the surface boundary lines drawn downwards to an unlimited depth from the surface.

Mining titles are bounded by vertical planes.

112. (1) Whenever any land the subject of an exclusive prospecting licence, mining right, temporary title or mining lease is required for public purposes, the Governor may call upon the holder of the exclusive prospecting licence, mining right or the lessee of the mining lease to surrender his title to such land.

Land required for public purposes.

(2) The holder of an exclusive prospecting licence or mining right or the lessee of the mining lease shall when so called upon

within a reasonable time surrender such area in accordance with the procedure prescribed by sub-sections (4) to (11) inclusive of section 36.

(3) Compensation shall be payable to any of the persons mentioned in sub-section (1) for any interference with his ways, works, buildings or plant or for the expenses incurred in prospecting the area so required and in the case of a mining lease or mining right for the loss of reasonable expectation of profits from proved minerals on the land required for public purposes. If any question shall arise as to what are proved minerals, it shall be determined by arbitration.

(4) The compensation payable to any of the persons mentioned in sub-section (1) shall, if not agreed between the parties, be determined by arbitration.

Rights subsequently granted.

113. The grant of any mining lease, mining right, temporary title or exclusive prospecting licence under this Ordinance shall not limit the power of the Governor—

(a) to grant any other lease, right of occupancy or licence (not being a mining lease or mining right or exclusive prospecting licence) to any other person in respect of the whole or any portion of the area the subject of a mining lease, mining right, temporary title or exclusive prospecting licence :

Provided that in the case of lands which are the subject of a mining lease, mining right, temporary title or of an exclusive prospecting licence any person to whom any other lease, right of occupancy or licence is subsequently granted shall not be entitled to receive any compensation from the Government for any disturbance of any rights under such lease, right of occupancy or licence by reason of the exercise by the mining lessee, holder of the mining right, temporary title or prospecting licence of any right conferred by such lease, right, title or licence ;

Materials required for public works.

(b) to take from the land the subject of the mining lease, temporary title, mining right or exclusive prospecting licence any materials required for the construction of railways, roads, buildings or other public works ;

(c) to use or, subject to the provisions of paragraph (c) of the proviso to section 83, to allow the use of any road constructed on the area covered by the grant ;

Minerals

Provided that the Governor⁽¹⁾ may, before authorising the use of any such road for vehicular traffic by persons other than Government officers or servants, require any person desiring to use the road for such purpose to pay to the person who shall have constructed the same such sum as the Governor may consider to be a fair contribution to the cost of construction and maintenance.

114. (1) Whenever a lease or licence is granted under the Mineral Oils Ordinance in respect of any lands included in the area of a mining lease, temporary title, mining right or exclusive prospecting licence, the rights of the holder of a mineral oil licence or lease shall for and in relation to his mining or prospecting operations prevail over the rights of the lessee or holder of the right, temporary title or licence under this Ordinance.

Rights of licensee or lessee under Chapter 135 to have preference.

(2) If it is intended that any mineral oil on or under land included within the area of a mining lease shall be worked by the Government, or if the applicant for or the holder of a licence or lease under the Mineral Oils Ordinance shall request the Governor to determine any lease under this Ordinance, and shall satisfy the Governor that such determination is necessary in the interests of the applicant, and shall give security for the payment of any compensation payable under sub-section (3), the Governor may, by notice served on the lessee under this Ordinance, determine such lease from such date as may be specified in the licence.

In whose favour a lease under this Ordinance may be determined.
Cap. 135.

(3) The lessee whose mining lease shall be determined under this section shall be entitled to receive reasonable compensation for such loss or damage, if any, as may have been sustained by him in consequence of such determination. The compensation shall be paid by the Government when the lease is determined for the purposes of the Government, and in other cases by the person who shall have requested the determination of the lease, and the amount thereof, if not agreed upon between the parties, shall be determined by arbitration.

But subject to the payment of compensation.

115. (1) Any administrative officer or mines officer or any member of the Forestry, Survey or Geological Survey Departments may enter upon any land on which mining or prospecting operations are being carried on or which is the subject of any mining lease, mining right, temporary title or exclusive prospecting

Right of entry and inspection.

(1) Power delegated to Chief Commissioners.

licence under this Ordinance, and inspect any prospecting or mining operations or any works in connexion therewith or make any survey.

(2) Any mines officer or member of the Geological Survey Department may inspect and take copies or extracts from any books, papers, plans or documents dealing with the operations of a mining lessee or the holder of any temporary title, right or licence under this Ordinance and required by this Ordinance to be kept by such lessee or holder.

(3) Any mines officer or member of the Geological Survey Department may at any time take samples, make surveys and perform any operations that he may deem necessary for the purpose of making a report on any land.

Obligations of exclusive prospecting licensees, lessees and holders of mining titles and rights on surrender, revocation or expiry of licence, lease or mining right and title.

116. (1) Any holder of an exclusive prospecting licence, mining lease or mining right or any applicant for a lease, to whom a temporary title has been granted, whose licence, lease or right or temporary grant is revoked, surrendered or expires by effluxion of time shall, not later than thirty days from the date of notice of revocation or the date of surrender or expiry—

- (a) remove all temporary beacons demarcating the area the subject of the licence, lease or mining right; and
- (b) inform the Chief Inspector that he has complied with the provisions of this section.

(2) If any person fails to comply with the provisions of paragraph (a) of the preceding sub-section the Chief Inspector may cause the required action to be taken and shall charge such person such sum as was reasonably expended in so doing and such charge shall be a lawful deduction from any deposit lodged by such person with the Government under the provisions of this Ordinance save that such action by the Chief Inspector and such payment by the person shall not exempt such person from his liability to a penalty for having committed an offence.

Arbitrations.
Cap. 13.

117. The Arbitration Ordinance shall apply to every arbitration under this Ordinance, with the modifications and additions following :—

- (a) unless the parties shall otherwise agree in writing, the reference shall be to two arbitrators, one to be appointed by each side, and the arbitrators may, if necessary, appoint an umpire;

Minerals

- (b) when requested by a native, being one of the parties to an arbitration, the Governor⁽¹⁾ may appoint an arbitrator on behalf of such native, and in such case may fix the fee which shall be paid to the arbitrator, or, when the arbitrator is a person in the service of the Government, to the Government for the services of the arbitrator.

118. No person, while in the service of the Government of Nigeria shall directly or indirectly acquire or hold any right or interest under any prospecting right, exclusive prospecting licence, mining right, temporary title or mining lease, and any licence, right or lease or other document or transaction purporting to confer any such right or interest on any such person shall be null and void.

Government officers prohibited from acquiring rights.

119. It shall be lawful for the Chief Inspector whenever, in his opinion, it may be necessary in order to secure safe or economic mining on the area covered by any mining lease, mining right or temporary title to prohibit that form of mining which is of an indiscriminate nature, wherein the miner, who is paid according to the quantity or quality of the mineral won by him, may choose his own working place and such form of mining is prohibited at all times underground save with the permission of the Chief Inspector in writing.

Prohibition of tributing.

120. (1) The Governor in Council may make regulations for fully and effectually carrying out, and giving effect to, the various purposes, provisions and powers in this Ordinance contained.

Power to make regulations.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

- (i) the manner in which applications for any licence, right or lease which may be granted under this Ordinance shall be made or withdrawn and the forms to be used ;
- (ii) the fees, rents and payments to be paid for any licence, right or lease granted ;
- (iii) the size and shape of the areas over which exclusive prospecting licences and mining rights may be granted ;
- (iv) the size and shape of the areas over which mining leases may be granted ;
- (v) the manner in which areas and boundaries shall be surveyed, marked and beacons and the fees payable in respect of such survey ;

⁽¹⁾ Power delegated to Chief Commissioners.

Minerals

- (vi) the exemption of any area of land to be included in a licence for the exclusive prospecting for, or a lease for the mining of, any carbonaceous mineral from the provisions of section 62 ;
- (vii) the working conditions to be applied to exclusive prospecting licences, mining rights and mining leases ;
- (viii) controlling the time and manner of receipt of and payment for mineral obtained by tribute labour and the manner in which the accounts shall be kept ;
- (ix) the construction and use of roads, tramways and railways a
- (x) the safe construction and erection of houses, pits, shafts, machinery and other works to be used for prospecting or mining purposes ;
- (xi) the fencing off or rendering secure of any shaft, tunnel, well, trench, drive or other works constructed or made for prospecting or mining purposes ;
- (xii) the prohibition of, or restriction on, the grazing of cattle in any mining area ;
- (xiii) the cutting down and use of timber for prospecting and mining operations ;
- (xiv) the safety, welfare, health and housing conditions of persons employed in mining operations and the carrying on of prospecting or mining operations in a safe, sanitary, proper, economic and effectual manner ;
- (xv) the renewal, assignment, when such assignment is permitted by this Ordinance, and surrender of any right or title granted under this Ordinance ;
- (xvi) the returns to be rendered and the accounts, books and plans to be kept by lessees and the holders of mining rights, temporary titles and of exclusive prospecting licences ;
- (xvii) the rates of royalties to be paid to Government, the method of calculation of the amount of such royalties and the manner and time of payment thereof ;
- (xviii) the prevention of pollution of any natural water supply; the disposal of sludge, silt and tailing and the control of sludge channels ;
- (xix) the furnishing by owners or managers of mines of statistical returns and the keeping and production by them of books and plans ;

Minerals

- (xx) the procedure on an appeal to the Governor ;
- (xxi) the fees to be paid in respect of any matter or thing done under this Ordinance ;
- (xxii) the procedure to be followed under any section of this Ordinance ;
- (xxiii) the penalties which may be imposed for the breach of any of the regulations not exceeding a fine of two hundred pounds or imprisonment for two years or both such fine and imprisonment and for a continuing penalty not exceeding five pounds per day ;
- (xxiv) the control of the pollution or wasting of water, wherever situated and wherever obtained ;
- (xxv) the disposal of any poisonous or noxious products resulting from prospecting or mining operations ;
- (xxvi) the determination of what proportion of any precious mineral per ton an ore may contain without coming under the definition of precious minerals ;
- (xxvii) the amount of tailing which may be deposited in any natural watercourse ;
- (xxviii) the methods to be employed to ascertain the horsepower of labour-saving apparatus ;
- (xxix) the holding of an inquiry where evidence may be taken upon oath into any accident occurring in any mine or in connexion with mining or prospecting operations conducted under a mining lease, mining right, temporary title or exclusive prospecting licence involving loss of life or serious injury to any person, the summoning and expenses of witnesses ;
- (xxx) providing for the forfeiture of any mineral illegally won, sold, purchased, or possessed ; and
- (xxxi) generally for carrying into effect the purposes and provisions of this Ordinance.

121. The Governor may from time to time, by notification in the Gazette, add to, alter or rescind any of the forms contained in the First Schedule or substitute other forms therefor or prescribe additional forms. Forms so added to, altered, substituted or prescribed shall be deemed to be forms contained in the First Schedule.

Forms may
be altered
or added to.
First
Schedule.

Minerals

PART XIV

REPEAL

Repeal and
saving.

122. The Ordinances set out in the Third Schedule⁽¹⁾ hereto are hereby repealed save that such repeal shall not, subject to the provisions of this Ordinance, affect anything done or any licence, right or lease given or granted under the provisions of any of the repealed Ordinances and, subject to the provisions of this Ordinance, the holder or grantee of any such licence, right or lease shall hold and exercise any such licence, right or grant as if it had been issued under the provisions of this Ordinance.

FIRST SCHEDULE

INDEX OF FORMS

- A. Prospecting right.
- B. Exclusive prospecting licence.
- C. Surrender of exclusive prospecting licence.
- D. Temporary mining lease/right.
- E. Mining right.
- F. Mining lease.
- G. Surrender of mining lease.
- H. Assignment of mining title.
- I. Water licence.
- J. Permit to deposit tailings.
- K. Licence to purchase minerals.
- L. Form of Banker's guarantee.
- M. Summons to witness.

Form A.
Section 17.

FORM A

THE MINERALS ORDINANCE
(Chapter 134)

PROSPECTING RIGHT

No.....

The Right, subject to the provisions of the Minerals Ordinance and of the regulations thereunder now in force or which may come into force during the continuance of this Right is hereby granted for twelve months from the date hereof to

*

†

to prospect for.....

⁽¹⁾ Omitted: the Ordinances repealed are Chapter 93 of the 1923 edition and the amending Ordinances Nos. 14 of 1918, 11 of 1920, 39 and 65 of 1922, 30 of 1924, 9 of 1927, 2 of 1928, 26 of 1929, 15 and 24 of 1934, 5, 19 and 28 of 1935, 30 of 1936, 4 of 1942, 1 of 1943 and 8 of 1944.

Minerals

SCHEDULE—FORM A—*continued*

in the following districts.....

This.....day of....., 19.....

.....
(*Chief Inspector of Mines.*)

FEE : Five pounds.

* Here insert name, address and description of the prospector.

† If the prospector is to use this Right as an employee on behalf of a company partnership or individual, state name, address and description of employer here.

FORM B

THE MINERALS ORDINANCE

(*Chapter 134*)

EXCLUSIVE PROSPECTING LICENCE

No.....

Form B.

Section 19.

The exclusive licence, subject to the provisions of the Minerals Ordinance and of the regulations thereunder now in force or which may come into force during the continuance of this licence or any renewal thereof, for one year from the..... day of..... is hereby granted to *..... to prospect for..... within the following limits:—

†..... as delineated approximately on the plan attached hereto and coloured

This.....day of....., 19.....

.....
(*Governor.*)

RENT :

* Insert name, address and description of the licensee.

† Insert description of the boundaries of the area.

FORM C

THE MINERALS ORDINANCE

(*Chapter 134*)

SURRENDER OF AN EXCLUSIVE PROSPECTING LICENCE

Form C.

Section 23.

Whereas under the provisions of the Minerals Ordinance an Exclusive Prospecting Licence was on the.....day of....., 19....., granted and duly registered in volume.....page..... of the Register of Exclusive Prospecting Licences and whereas the said..... desires to surrender the said exclusive prospecting licence and the Governor is willing to accept such surrender :

Minerals

SCHEDULE—FORM C—continued

Now these presents witness the said..... doth hereby surrender all his right, title and interest in the said Exclusive Prospecting Licence as from the.....day of19....

Holder

Witness to signature

Address

Approved

Date

(Governor.)

Form D. Section 26.

FORM D

THE MINERALS ORDINANCE

(Chapter 134)

TEMPORARY MINING LEASE/RIGHT

This temporary mining lease/right is granted to

of (1)..... of (2)..... (3).....

for the purpose of mining (1)..... in, under or upon (5)..... in respect of which an application for a mining lease/right has been made by the said (6)..... which said area is delineated on the application plan hereto annexed furnished by the said (7)..... for a period of (8)..... according to the true intent and meaning of the Minerals Ordinance and subject to the provisions thereof generally and particularly in respect of the provisions of section 26 thereof and of any Ordinance amending or substituted for the said Ordinance and to the regulations now in force or which from time to time may be in force during the continuance of this temporary grant as if this temporary grant were a mining lease/right and subject to the following covenants and conditions to wit: (9)..... and subject also to the further conditions and restrictions, to wit—

- (a) that the rents reserved under this temporary grant be punctually paid in advance without demand made to the Chief Inspector of Mines ;
(b) that if mining operations are not carried out or to be carried out under this temporary grant notice in writing to that effect must be given to the Chief Inspector of Mines ;
(c) the grantee undertakes to pay the cost of survey and deposits a sum sufficient to cover the estimated cost thereof with the Chief Inspector of Mines and if mining operations are commenced under this temporary grant the grantee shall not withdraw his application for a mining lease/right until the survey has been completed ;
(d) the fee for this temporary grant is £.....

*Minerals*SCHEDULE—FORM D—*continued*

.....
 (10).....
 and subject also to the surface rent hereunder reserved payable in respect of land occupied or used for or in connexion with the purposes of this temporary grant being reserved by the Governor (11) and the occupation of the area delineated in the plan annexed hereto and the boundaries thereof and all mining operations and all other matters connected therewith shall be at the sole and absolute risk and liability of the grantee.

Rents payable

(12).....

DATED this.....day of....., 19....

.....
 (Governor.)

- (1) Insert name of grantee.
 (2) Insert address of grantee.
 (3) Insert description of grantee.
 (4) Insert name of mineral or class of minerals covered by the temporary grant.
 (5) Insert description of the area and its boundaries.
 (6) Insert name of grantee.
 (7) Insert name of grantee.
 (8) Insert term of temporary grant.
 (9) Insert appropriate covenants and conditions.
 (10) Insert any additional covenants or restrictions.
 (11) Insert periods of revision, if any.
 (12) Insert the rents payable

FORM E

THE MINERALS ORDINANCE

(Chapter 134)

MINING RIGHT

Mining Right No.....

The exclusive right, subject to the provisions of the Minerals Ordinance and of the regulations thereunder now in force or which may come into force during the continuance of this licence or any renewal thereof, for one year, from the date hereof is granted to

(1)

(2)

(3)

to mine (4)

within the following limits :—

(5)

and subject to the following covenants and conditions :—

(6)

Form E.
 Section 27.

*Minerals*SCHEDULE—FORM E—*continued*

This.....day of....., 19.....

MINERAL RENT : (Governor.)

SURFACE RENT :

(1) Insert name of holder.

(2) Insert holder's address.

(3) Insert description of holder.

(4) Insert name of mineral.

(5) Insert a description of the area by reference to the name of the stream and the position of the boundary marks.

(6) Insert special covenants and conditions.

Form F.
Section 33.FORM F
THE MINERALS ORDINANCE
(Chapter 134)
MINING LEASE

Mining Lease No.....

This mining lease is granted to (1).....

(2).....

(3).....

for the purpose of mining (4).....

in, under or upon (5).....

.....
as the same is delineated on the plan annexed hereto and coloured....

..... for a term of (6) years from the

..... day of....., 19....., according to the true intent

and meaning of the Minerals Ordinance and subject to the provisions

thereof and of any Ordinance amending the same or substituted therefor,

and to all regulations now in force or which may come into force, under

any of the said Ordinances, during the continuance of this lease. And

subject also to the following condition(s):—(7)

.....
The surface rent payable in respect of any land occupied or used for or
in connexion with the purposes of this mining lease may be revised by the
Governor (8)

DATED this.....day of....., 19.....

MINERAL RENT : (Governor.)

SURFACE RENT :

(1) Insert name of lessee.

(2) Insert address of lessee.

(3) Insert description of lessee.

(4) Insert name of mineral or class of minerals in respect of which the lease is granted.

(5) Insert description of the area and its boundaries.

(6) Insert term of lease.

(7) Insert if any special conditions are imposed.

(8) Insert periods of revision.

Minerals

SCHEDULE—*continued*

FORM G
THE MINERALS ORDINANCE
(Chapter 134)
SURRENDER OF A MINING LEASE

Form G.
Section 36.

WHEREAS under the provisions of the Minerals Ordinance, mining lease number..... for the purpose of mining⁽¹⁾..... in, under or upon⁽²⁾..... was on the day of....., 19....., granted to for a term of..... years from and duly registered as No..... at page..... of volume..... of the Register of Mining Leases ;
(³).....

AND WHEREAS the said desires to surrender the said mining lease and the Governor is willing to accept such surrender ;

Now these presents witness that the said doth hereby surrender all his rights, title and interest in and under the said mining lease as from the..... day of..... 19.....

In witness, etc.

Approved.....
(Governor.)

(1) Insert the mineral or class of minerals.
(2) Insert the description of the area of the lease as set out in the lease.
(3) If necessary, insert "AND WHEREAS the said lease was on the..... day of , 19....., transferred to..... and the "transfer was duly registered as No..... at page..... in volume..... "of the Register of Mining Leases ;".

FORM H
THE MINERALS ORDINANCE
(Chapter 134)
ASSIGNMENT

Form H.
Section 13.

I, (¹)
(²)..... being the holder of (³)..... number..... registered as No..... at page..... in volume..... of the Register of Mining Titles in the Registry at Kaduna, which said entitles me to (⁴) for (⁵) within the area therein described, in consideration of the sum of the receipt whereof I hereby acknowledge, DO HEREBY ASSIGN all my rights, title and interest in and under the said to(⁶).....
(⁷)

Minerals

SCHEDULE—FORM H—continued

with effect from the.....day of....., 19.....

DATED the.....day of..... 19.....

Signed by the said.....

In the presence of.....

.....(8).....

Signed by the said.....

In the presence of.....

.....(8).....

Approved.....

Date

(Governor.)

(1) Insert holder's name.

(2) Insert holder's address.

(3) Insert nature of title.

(4) "mine" or "prospect" as the case may be.

(5) Insert the mineral or class of minerals in respect of which the title was granted.

(6) Insert transferee's name.

(7) Insert transferee's address.

(8) Insert address of witness.

Form I.
Section 57.

FORM I

THE MINERALS ORDINANCE

(Chapter 134)

WATER LICENCE No.

Subject to existing rights in respect of water from the river or stream known as.....the Governor hereby grants to:—

(1)

subject to the provisions of the Minerals Ordinance and of the regulations thereunder now in force or which may come into force during the continuance of this licence, the right to divert water from the said river or stream from the point marked A to the points marked B, C and D, as shown on the plan annexed hereto and to convey such water not exceeding

(2)

..... cubic feet per second

to the following leases:—

(3)

for the term of the said leases or any renewals thereof for the purpose of mining operations upon the said leases.

The average width of the leat including the land covered by spoil shall not exceed.....feet and the length of the watercourse

*Minerals*SCHEDULE—FORM I—*continued*

(including the portion which lies within the said mining leases) amounts to (4).....yards of which.....yards is on land the subject of a mining right or mining lease held by the applicant, and is situated in the.....District of the.....Division of the.....Province.

The Governor also grants to the licensee the right to erect, cut and construct a pump, pumping station, line of pipes, flume, furrow, race drain, leat, dam or reservoir as shown on the plan annexed hereto and for such purpose to enter upon and use such land as may be necessary to the undertaking.

Subject to the following terms and conditions:—

- (1) The Governor may alter the quantity of water allowed to be conveyed under this licence if it is shown to his satisfaction that the holder does not require the full amount and that other persons require the surplus or a part thereof.
- (2) The licensee shall construct footbridges over the leat at all points where native paths exist unless exempted therefrom by the divisional officer in writing.
- (3) The licensee shall pay surface rent at the rate(5) of.....per annum in respect of the length of leat running outside the area held by the licensee under mining lease or mining right and surface rent at the rate of.....per annum in respect of the land (if any) covered by the dam or reservoir, and water rent at the rate of.....cubic feet per second per annum.
- (4) The licensee undertakes to pay compensation to the owners of any lands affected whereon he does damage to crops, trees of economic value, or buildings on any Crown land or private land or land held under a right of occupancy, caused by any operations of the said licensee in the course of or incidental to the exercise of the rights hereby granted.
- (5) The licensee undertakes on the expiry or cancellation of this licence not to remove any of the works erected thereunder without the permission of the Governor.
- (6) The licensee undertakes at the request of the holder of a mining lease granted before the date of this licence whose lease is traversed by any leat or line of pipes erected under this licence, to deviate such works at his own expense when such lessee desires to use or deal with the land in such a manner as to render it necessary or convenient that such leat or line of pipes should be so deviated.

(Here insert any special conditions.)(6)

This licence may be cancelled at any time by the Governor if the licensee shall cease to exercise the rights granted hereunder for a continuous period of twelve months or upon proof of a breach by the licensee of the provisions of the Minerals Ordinance or regulations or of any of the foregoing conditions.

*Minerals*SCHEDULE—FORM I—*continued*

DATED this.....day of....., 19.....

WATER RENT :

(Governor.)

SURFACE RENT :

- (¹) Insert name and address of holder or transferee.
 (²) Insert the maximum allowed in cubic feet per second or any revision thereof.
 (³) Insert the leases served and any additions thereto.
 (⁴) Insert the length of the watercourse or any alteration thereof.
 (⁵) Southern Provinces only in respect of leat.
 (⁶) Insert other terms and conditions, if any.

Form J.
Section 47.

FORM J
 THE MINERALS ORDINANCE
 (Chapter 134)
 PERMIT TO DEPOSIT TAILING

No.....

Permission is hereby granted to (¹).....
 of (²).....
 to deposit tailing from (³).....
 in the (⁴)..... river or stream
 up to a maximum of

subject to the provisions of the Minerals Ordinance and of the regulations
 made thereunder and subject to the following condition(s):—

(Signed).....

Date

- (¹) Insert name of holder.
 (²) Insert address of holder.
 (³) Insert "mining lease" or "mining right" as the case may be.
 (⁴) Insert the name of the river or stream.

Form K.
Section 68.

FORM K
 THE MINERALS ORDINANCE
 (Chapter 134)
 LICENCE TO PURCHASE MINERALS

Licence is hereby granted to (¹).....
 (²).....
 to purchase the following minerals:—

.....
 subject to the provisions of the Minerals Ordinance and of the regulations
 thereunder for the time being in force.

(Chief Inspector of Mines.)

Date

- (¹) Insert name of holder.
 (²) Insert address of holder.

Minerals

SCHEDULE—*continued*

FORM L
THE MINERALS ORDINANCE
(Chapter 134)

Form L.
Sections 11
and 73.

BANKER'S GUARANTEE

WHEREAS (a)
.....have/has applied to the.....
.....for the grant of a.....

AND WHEREAS I (b).....of
.....have undertaken
to provide the said (c).....
.....with sufficient money to ensure the payment to.....
.....of.....or any
other sum which may become due to them as a result of the exercise of
the rights under a.....

NOW I HEREBY GUARANTEE that I will at any time upon the request of
the
deposit with.....
the money required to make such payments, provided always that the
total sum shall not exceed the sum of.....,
and provided further that this guarantee shall be irrevocable by me except
with the prior consent of the.....

DATED this.....day of....., 19....

In the presence of.....

(d).....

(e).....

To The.....

STAMP DUTY :

- NOTE:—(a) Name, address and occupation of person or persons guaranteed.
(b) Name, address and occupation of Guarantor.
(c) Name of person guaranteed.
(d) Signature of Guarantor.
(e) Signature of witness.

FORM M
THE MINERALS ORDINANCE
(Chapter 134)

Form M.
Section 95.

SUMMONS TO WITNESS

To (1).....

(2).....
You are hereby summoned to appear before the undersigned at
.....upon the.....day of

*Minerals*SCHEDULE—FORM M—*continued*

....., 19....., and to give evidence at an inquiry being held into an accident at on the..... day of....., 19....., and you are required to bring with you ⁽³⁾..... Therein fail not at your peril.

.....
(Inspector of Mines.)

⁽¹⁾ Insert name of intended witness.

⁽²⁾ Insert address of intended witness.

⁽³⁾ Name any document the intended witness will be required to produce.

Sections 106
and 107.

SECOND SCHEDULE

Chapter in 1923 edition or Ordinances in Annual Volumes	Short Title	Chapter in this edition
56	The Public Health Ordinance, 1917	183
90	The Survey Ordinance, 1918	212
94	The Mineral Oils Ordinance, 1914	135
133	The Explosives Ordinance, 1915	69
18 of 1935	The Gold Trading Ordinance, 1935	82
1 of 1937	The Sleeping Sickness Ordinance, 1937	208
38 of 1937	The Forestry Ordinance, 1937	75
51 of 1941	The Workmen's Compensation Ordinance, 1941	234
6 of 1944	The Goldsmiths Ordinance, 1944	81
54 of 1945	The Labour Code Ordinance, 1945	99
Regs. 27 of 1942	The Nigeria Defence (Finance) Regulations, 1942 ⁽¹⁾	

⁽¹⁾ These regulations expire on the 10th of December, 1950.

Colony and Protectorate of Nigeria—1948 Revision

CHAPTER 134

MINERALS

(*Colony and Protectorate*)

DECLARATION OF CONGESTED AREAS UNDER SECTION 2 OF THE MINERALS ORDINANCE.

1. This declaration may be cited as the Congested Areas (Jos Division) Declaration, 1946.

Public Notices
125 of 1946
(29th Aug.)
193 of 1946.

2. All that part of the Jos Division of Plateau Province, comprising parts of the village areas of Gyel, Vom, Kuru, Du, Zawan, Shen, Gigin, the boundaries of which are delineated by a red verge line on plan drawing No. M. 7094 copies of which are deposited in the office of the Senior Surveyor in charge of the Minesfield District Surveys, Jos, and more particularly described in the Schedule hereto, is hereby declared to be a congested area.

Declaration
of
congestion.

Schedule.

3. Further, in exercise of the powers conferred upon the Governor by paragraph (c) of sub-section (1) of section 14 of the said Ordinance, the permission of the Governor is hereby granted to each holder or grantee of a prospecting right, an exclusive prospecting licence, a mining right or a mining lease in force at the date of publication of this notice to exercise, in the area hereinbefore declared to be a congested area, all or any of the rights conferred by the instrument of which he is the holder or grantee.

SCHEDULE

Starting at triangulation station N.12 situated about $1\frac{1}{4}$ miles south-west of the Sudan United Mission Station, Vom, in latitude $9^{\circ} 40' 33.1''$ north and longitude $8^{\circ} 43' 56.3''$ east the boundary runs for a distance of 14,338 feet on a bearing of $128^{\circ} 24'$ to triangulation station Y.K. 469, thence for 4,000 feet on a bearing of 90 degrees to a point on the Jos-Jemaa road about two miles north-east of Riyom, thence along the Jos-Jemaa road in a general north-easterly direction for about $8\frac{1}{2}$ miles to its junction with the Jos-Rop road, thence along the Jos-Rop road in a general south-easterly direction for about $1\frac{1}{4}$ miles to a point which is 1,480 feet on a bearing of $290^{\circ} 04'$ from C.B. 2 of M.L. 6012, thence for 1,480 feet on a bearing of $110^{\circ} 04'$ to C.B. 2 of M.L. 6012, thence for 1,953 feet on a bearing of $74^{\circ} 29'$ to C.B. 1 of M.L. 6012, thence for 6,800 feet on a bearing of $35^{\circ} 10'$ to triangulation station Y. 75, thence for 6,700 feet on a bearing of $38^{\circ} 40'$ through C.B. 3 of M.L. 1070 to a point on a road near Du Stream Camp, thence along this

SCHEDULE—*continued*

road in a general easterly direction for about one mile to the point where it crosses the side C.B. 4-C.B. 5 of M.L. 7464, thence for 2,080 feet on a bearing of $39^{\circ} 36'$ to C.B. 4 of M.L. 7464, thence for 276 feet on a bearing of $53^{\circ} 54'$ to L.M. of M.L. 7861, thence for 2,400 feet on a bearing of $47^{\circ} 42'$ through C.B. 3 of M.L. 7861 to a point 2,100 feet due south of triangulation station Y. 53, thence for 2,100 feet on a bearing of 0 degrees to triangulation station Y. 53, thence for 4,500 feet on a bearing of 48 degrees to C.B. 2 of M.L. 7462, thence for 890 feet on a bearing of $10^{\circ} 13'$ to C.B. 1 of M.L. 7462, thence for 12,700 feet on a bearing of $16^{\circ} 20'$ to C.B. 20 of M.L. 2609, thence for 6,655 feet on a bearing of $351^{\circ} 54'$ to L.M. of M.L. 2609, thence for 9,500 feet on a bearing of $35^{\circ} 30'$ to a point on the boundary between Plateau and Bauchi Provinces, thence along this boundary in a general north-westerly direction for about $2\frac{1}{2}$ miles to a point on the Eastern Shen River, thence for 12,500 feet on a bearing of 299 degrees to a point near Barikin Delimi, thence for 3,900 feet on a bearing of $324^{\circ} 10'$ to C.B. 2 of M.L. 2344, thence for 1,200 feet on a bearing of $316^{\circ} 40'$ to C.B. 3 of M.L. 7404, thence for 1,100 feet on a bearing of $313^{\circ} 20'$ to triangulation station Y. 44, thence for 3,250 feet on a bearing of 334 degrees to C.B. 1 of M.L. 1746, thence for 1,292 feet on a bearing of $322^{\circ} 58'$ to C.B. 2 of M.L. 1008, thence for 919 feet on a bearing of $272^{\circ} 53'$ to C.B. 1 of M.L. 1008, thence for 1,930 feet on a bearing of $273^{\circ} 06'$ through L.M. of M.L. 1008 to a point on the Jos Township boundary, thence along this boundary in general south-westerly and north-westerly directions for about $2\frac{1}{2}$ miles to a point 390 feet on a bearing of $356^{\circ} 19'$ from P.B.P. 2190, thence for 15,400 feet on a bearing of 269 degrees to a point on the Rafin Bauna, thence along the Rafin Bauna in general westerly and southerly directions for about $3\frac{1}{2}$ miles to a point 950 feet on a bearing of $301^{\circ} 05'$ from C.B. 11 of M.L. 3226, thence for 950 feet on a bearing of $121^{\circ} 05'$ to C.B. 11 of M.L. 3226, thence for 4,752 feet on a bearing of $239^{\circ} 48'$ to C.B. 9 of M.L. 3226, thence for 6,300 feet on a bearing of $246^{\circ} 30'$ to C.B. 1 of M.L. 6243, thence for 802 feet on a bearing of $194^{\circ} 19'$ to L.M. of M.L. 6243, thence for 13,000 feet on a bearing of $183^{\circ} 50'$ to C.B. 5 of M.L. 7364, thence for 6,900 feet on a bearing of $190^{\circ} 10'$ to C.B. 4 of M.L. 6114, thence for 17,300 feet on a bearing of $206^{\circ} 50'$ to triangulation station X. 10, thence for 11,771 feet on a bearing of $191^{\circ} 00'$ to triangulation station Y. 13, thence for 23,382 feet on a bearing of $194^{\circ} 31'$ to triangulation station N. 12, the starting point.

All bearings and distances are approximate and all bearings are referred to Colony North.

DECLARATION OF AREAS CLOSED TO PROSPECTING UNDER SECTION
8 OF THE MINERALS ORDINANCE.

Public Notices
22 of 1946
(25th Feb.)
78 of 1947
(1st July)

1. This declaration may be cited as the Prospecting (Areas and Minerals) Prohibition Declaration, 1946.

Minerals

2. (1) The following areas are hereby declared to be closed to prospecting for all minerals :—

Certain areas closed to prospecting.

- (a) All that piece of land near Vom in the Bukuru District of the Plateau Province containing 3,745.78 acres the boundaries of which are delineated by a red verge line on plan drawing No. M.33/A, a copy of which is deposited in the office of the Chief Inspector of Mines and are more particularly described as follows :—

Starting from corner beacon 8 which is distant approximately 12,077 feet on a bearing of $270^{\circ} 53'$ from Kuru Trigonometrical Station the boundary runs for a distance of 3,752 feet on a bearing of $260^{\circ} 47'$ thence for 6,150 feet on a bearing of $281^{\circ} 30'$;

“	“	1,305	“	“	“	$265^{\circ} 30'$;
“	“	7,214	“	“	“	$250^{\circ} 19'$;
“	“	10,060	“	“	“	$139^{\circ} 18'$;
“	“	6,497	“	“	“	$110^{\circ} 32'$;
“	“	3,346	“	“	“	$92^{\circ} 12'$;
“	“	4,857	“	“	“	$61^{\circ} 39'$;
“	“	5,163	“	“	“	$355^{\circ} 20'$;
“	“	4,625	“	“	“	$318^{\circ} 01'$;

back to the starting point thus enclosing the area stated above. All corners are marked by concrete beacons and all bearings are referred to True North ; and

- (b) All that piece of land situated on the north-east of Jos Town in the Naraguta District of the Plateau Province consisting of 10.54 square miles, exclusive of C. of O. No. 1,496 the boundaries of which are delineated by verge lines on drawing No. 305, and are more particularly described as follows :—

Starting from Property Beacon 870 whose distance to Triangulation Station N. 1 is 1,248 feet on a bearing of $2^{\circ} 08'$, the boundary runs for a distance of 1,321 feet on a bearing of $323^{\circ} 57'$ to P.B. 872 thence for 5,647 feet on a bearing of $337^{\circ} 05'$ to P.B. 883 thence for

2,564	“	“	“	$31^{\circ} 02'$	to P.B. 887	“	“
1,818	“	“	“	$359^{\circ} 47'$	to P.B. 889	“	“
1,943	“	“	“	$349^{\circ} 58'$	to P.B. 891	“	“
1,724	“	“	“	$19^{\circ} 25'$	to P.B. 892	“	“
3,846	“	“	“	$157^{\circ} 02'$	to P.B. 895	“	“
1,113	“	“	“	$90^{\circ} 16'$	to P.B. 898	“	“
4,212	“	“	“	$343^{\circ} 00'$	to P.B. 901	“	“
5,618	“	“	“	$00^{\circ} 00'$	to P.B. 905	“	“
1,124	“	“	“	$90^{\circ} 00'$	to P.B. 907	“	“
1,816	“	“	“	$347^{\circ} 36'$	to P.B. 910	“	“
5,196	“	“	“	$87^{\circ} 23'$	to P.B. 915	“	“
2,011	“	“	“	$180^{\circ} 00'$	to P.B. 918	“	“
2,689	“	“	“	$90^{\circ} 00'$	to P.B. 920	“	“
18,887	“	“	“	$180^{\circ} 00'$	to P.B. 931	“	“
2,372	“	“	“	$89^{\circ} 11'$	to P.B. 934	“	“
5,059	“	“	“	$126^{\circ} 15'$	to P.B. 945	“	“
2,300	“	“	“	$43^{\circ} 11'$	to P.B. 946	“	“

Minerals

3,587 feet on a bearing of $134^{\circ} 35'$ to P.B. 947 thence for
 2,088 " " " $186^{\circ} 29'$ to P.B. 951 " "
 4,187 " " " $180^{\circ} 25'$ to P.B. 954 " "
 6,531 " " " $275^{\circ} 37'$ to P.B. 962 " "
 4,906 " " " $277^{\circ} 58'$ to P.B. 969 " "
 7,804 " " " $347^{\circ} 10'$ to P.B. 1124 " "
 2,454 " " " $288^{\circ} 24'$ to Offania Trigonometrical Sta-
 tion, thence for 3,527 feet on a bearing of $258^{\circ} 54'$ to P.B. 870 back
 to the starting point, thus enclosing the area stated above. All
 corners are marked by concrete beacons and all bearings are referred
 to True North; and

- (c) The area known as the Olokemeji Forest Reserve, the boundaries of which are more particularly set out hereunder:—

All that piece of land known as Olokemeji Forest Reserve, which lies partly in the Abeokuta Province and partly in the Oyo Province of Nigeria, containing an area of approximately 17,377 acres, the boundaries of which are described as follows:—

Starting at beacon No. A.O. 73 on the northern boundary of the Abeokuta Province, which is also the north-east corner of Olokemeji Forest Reserve, the boundary runs in a southerly direction for a distance of approximately 25,000 feet to the south-east corner of Olokemeji Forest Reserve; thence in a westerly direction for a distance of approximately 29,800 feet to the south-west corner of Olokemeji Forest Reserve; thence on an approximate true bearing of $357^{\circ} 00'$ for a distance of approximately 24,550 feet to a beacon; thence on an approximate true bearing of $89^{\circ} 45'$ for a distance of approximately 31,550 feet to beacon No. A.O. 73, the starting point; and

- (d) The Ife-Ilesha Division of the Oyo Province; and
 (e) The Jemaa, Ayu and Ninzam districts of the Jemaa Division of the Plateau Province except under permit issued by the Senior Medical Officer in charge Sleeping Sickness Service.

(2) The provisions of paragraph (1) shall not apply to areas included therein held under exclusive prospecting licence, mining right or mining lease.

3. (1) Prospecting for coal, diamonds and radio active minerals is hereby prohibited throughout Nigeria.

(2) Prospecting for lignite is hereby prohibited save in the areas set out hereunder:—

- (a) To the east of the Niger River all those areas in the Onitsha Division of the Onitsha Province, and in the Owerri, Okigwi and Bende Divisions of the Owerri Province delineated and coloured brown and described as the Lignite Group on the geological maps accompanying Bulletins Nos. 8 and 12 of the Geological Survey of Nigeria.
 (b) All that area to the west of the Niger River.

*Minerals*NOTICES UNDER SECTION 65 OF THE MINERALS ORDINANCE.⁽¹⁾

In exercise of the powers conferred upon the Governor by section 65 of the Minerals Ordinance, which powers have been delegated under the provisions of section 33 of the Interpretation Ordinance to the Chief Commissioner, Northern Provinces, notice is hereby given that the provisions of sections 66 to 71 of the Minerals Ordinance shall apply to columbite as from the 1st day of December, 1941.

Public Notice
114 of 1941
(13th Nov.)

Cap. 94.

In exercise of the powers conferred upon the Governor by section 65 of the Minerals Ordinance, which powers have been delegated under the provisions of section 33 of the Interpretation Ordinance to the Chief Commissioner, Northern Provinces, notice is hereby given that the provisions of sections 66 to 71 of the Minerals Ordinance shall apply to wolfram as from the 1st day of July, 1942.

Public Notice
140 of 1942
(4th June)

Cap. 94.

REGULATIONS UNDER SECTION 120 OF THE MINERALS ORDINANCE,
THE MINERALS REGULATIONS

ARRANGEMENT OF REGULATIONS

PART I

PRELIMINARY

1. Short title.
2. Definitions.

PART II

APPLICATIONS

3. Notice to owner and occupier of land.
4. Inscription on temporary beacons.
5. Holder of prospecting right to be present.
6. Beacons to be erected before application.
7. Application to be lodged within 14 days.
8. (1) Application to Resident on prescribed form.
(2) Number of copies.
(3) Plans to accompany.
(4) Bearings magnetic.
(5) Fees to be deposited.
(6) Balances of fees.

⁽¹⁾ Section 65 of Ordinance No. 55 of 1945 repealed and re-enacted section 47 of Chapter 93 of the 1923 edition; these notices remain in force by virtue of section 18 of the Interpretation Ordinance, Chapter 94.

Minerals

9. Applicant to point out area.
10. Delay in supplying information.
11. Withdrawal.
12. Financial security and survey deposit.
13. Time limit for completion of survey.
14. Refusal of application where plan is defective.
15. Procedure in case of erroneous survey.
16. (1) Deposit of fees on application for temporary title.
(2) Number of copies.
17. Balance of payments.
18. Maintenance of beacons and boundary lines.
19. Numbers to be painted on beacons.

PART III

PROSPECTING

A.—Prospecting Rights

20. Prescribed officer.
21. Application for a prospecting right.
22. Prospector to inform Resident.
23. Application to retain or dispose of minerals.
24. Filling in of excavations.

B.—Exclusive Prospecting Licences

25. Shape of exclusive prospecting licence.
26. Exemption from survey.
27. Reduction or enlargement of area.
28. Minimum expenditure on prospecting.
29. Suspension of obligations.
30. (1) Grouping of obligations under exclusive prospecting licences.
(2) Obligations spread over group.
(3) Grouping of exclusive prospecting licences ; conditions.
31. Renewal or surrender of exclusive prospecting licences.

PART IV

MINING

A.—Mining Rights

32. (1) Mining right : when granted.
(2) Beacons.
(3) Prospecting plan.
(4) Mining lease may be substituted.
33. Classes of mining rights.
34. Renewal of mining rights.

B.—Mining Leases

35. (1) Classes of mining leases.
(2)-(5) Mineral which may be mined.
(6) Mining right may be substituted.
36. (1) Area and shape of mining lease.
(2) Prospecting plan.

Minerals

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37. Demarcation of land over which lessee desires to exercise surface rights.
 38. Payment of surface rent.
 39. Mining lessee shall not take rent.
 40. Surface lease or right of occupancy may be required.
 41. (1) Labour obligations.
(2) Horsepower equivalent.
(3) Modification of obligations.
(4) Seasonal modification.
(5) Temporary suspension of obligations.
 42. Grouping of mining leases.
 43. Doubt as to boundaries.
 44. Dumps not to spread.

PART V

TRIBUTERS

45. Tributers may be prohibited.
46. Accredited agent.
47. Tallies to issue to tributers.
48. Tributers' register.
49. Unregistered tributer not to be engaged.
50. Offences in respect of registration and tallies.
51. Limitation of hours during which tributer may win and remove mineral.
52. Permission to work on night shift.
53. (1) Limitation on receipt of mineral.
(3) Tributers' mineral record.
54. Precious mineral to be disclosed.
55. Places of receipt of mineral.
56. Tributer to work only on area for which he is registered.
57. Offence of possession.
58. Possession of metalliferous mineral.
59. Possession of precious mineral.
60. Tributers not to be employed on area held under an exclusive prospecting licence.
61. Deletion from register of tributer on ceasing work.
62. Penalty.

PART VI

WATER LICENCES

63. Beacons.

PART VII

TAILING

64. Deposition of tailing in a watercourse.

PART VIII

RENTS AND FEES

65. (1) Rents.
(2) Rents on leases granted prior to these regulations.
(3) Rents payable annually in advance.
66. Fees.

Minerals

PART IX

ROYALTIES

67. Royalties to be paid.
68. Computation of royalties.
69. Assumed assay value.
70. (1) Security for royalties.
(2) Export permit.
71. Royalties in force at the time.

PART X

ACCOUNTS, PLANS AND RETURNS

72. Accounts, records and plans to be kept.
73. Revision of plans.
 - (1) Exclusive prospecting licence.
 - (2) Mining right.
 - (3) Mining lease.
 - (4) Scales.
 - (5) Certified copies.
74. (1) Monthly returns.
(2) Annual returns.
75. Authentication of certificate.

PART XI

MICA

76. Area of a mica lease.
77. Labour obligations.

PART XII

CARBONACEOUS MINERALS

78. Application.
79. Doubt as to lignite.
80. Exemption from survey.
81. Area of a carbonaceous minerals lease.
82. Working conditions.

PART XIII

MISCELLANEOUS

83. Procedure on appeal to Governor.
84. Renewal by endorsement.
85. (1) Offences and penalties.
(2) Onus of proof.

First Schedule : Forms.

Second Schedule : Rents.

Third Schedule : Fees.

Fourth Schedule : Royalties.

*Minerals**Minerals Regulations*

PART I

PRELIMINARY

1. These regulations may be cited as the Minerals Regulations.

Regulations
4 of 1946
(25th Feb.)
37 of 1946.
Definitions.

2. Definitions :—

“lignite” includes brown coal but does not include sub-bituminous coal ;

“native” shall have the meaning from time to time ascribed to it by the Interpretation Ordinance ;

Cap. 94.

“sub-bituminous coal” includes coal of a glossy black or pitchy lustre, the fixed carbon content of which exceeds the volatile matter, and the percentage of moisture in which, in the raw state, does not exceed twelve *per centum* ;

“temporary beacon” means a post not less than three inches square or three inches in diameter projecting in an upright position not less than two feet above the top of a cairn of stones not less than three feet high. Where stones are not available earth may be used ;

“the Ordinance” means the Minerals Ordinance.

PART II

APPLICATIONS

3. Notice of an application for an exclusive prospecting licence or for a mining right or mining lease required to be given to the owner and occupier of land shall be given in the following manner :—

Method of giving notice to owner and occupier of land before application for licence, right or lease.

(a) when the person to whom the notice is to be given is literate, in writing addressed to such person ;

(b) when the person to whom notice is to be given is illiterate, to the Resident who shall ensure that the person is fully informed.

4. A temporary beacon shall bear, in distinct indelible characters not less than one inch high, on the post or on a board or metal plate securely attached to the post and so placed as to face outwards, the following information :—

Inscriptions on temporary beacons.

(a) When erected by an applicant for an exclusive prospecting licence prior to survey—

Exclusive prospecting licence.

(i) the name of the person, company, or partnership on whose behalf the application is being made, abbreviated if necessary, and the letters P.R. followed by the number of the prospecting right of the person erecting the beacon;

(ii) the letters E.P.L.;

(iii) the date of erection; and

(iv) one of the following groups of letters:—

L.B., if a location beacon

D.B., if a direction beacon

B.B., if a boundary beacon

C.B., if a corner beacon, followed by a figure indicating the number of the corner—1 or 2 or as the case may be.

Mining
right.

(b) When erected by an applicant for a mining right prior to survey—

(i) the name of the person, company or partnership on whose behalf the application is being made, abbreviated if necessary, and, if the area is wholly or partly outside the area of an exclusive prospecting licence, the letters P.R. followed by the number of the prospecting right of the person erecting the beacon;

(ii) the letters M.R.;

(iii) the date of erection; and

(iv) the letters U.B. on the upper beacon, and L.B. on the lower beacon.

Mining
lease.

(c) When erected by an applicant for a mining lease prior to survey—

(i) the name of the person, company, or partnership on whose behalf the application is being made, abbreviated if necessary, and, if the area is wholly or partly outside the area of an exclusive prospecting licence, the letters P.R. followed by the number of the prospecting right of the person erecting the beacon;

(ii) the letters M.L.;

(iii) the date of erection; and

(iv) one of the following groups of letters:—

L.B., if a location beacon

D.B., if a direction beacon

B.B., if a boundary beacon

Minerals

C.B., if a corner beacon, followed by a figure indicating the number of the corner—1 or 2 or as the case may be.

(d) When erected by an applicant for a water licence— Water licence.

(i) the name of the person, company or partnership on whose behalf the application is being made, abbreviated if necessary ;

(ii) the letters W.L. ; and

(iii) the date of erection.

5. The holder of a prospecting right must be present on some part of any area beaconed under the authority of his prospecting right at the time when such area is beaconed. Holder of prospecting right to be present.

6. (1) Before an application is made for an exclusive prospecting licence or mining lease, beacons shall be constructed and lines of stones made or trenches dug in the following manner :— Beacons to be erected before application.

(a) a temporary beacon shall be erected at one corner of the area and such beacon shall be known as the location beacon ;

(b) the remaining corners of the area shall be marked with temporary beacons which shall be known as corner beacons ;

(c) where both of the boundary lines radiating from the location beacons are more than one thousand feet in length, a temporary beacon, which shall be known as a direction beacon, shall be erected in a prominent position on one of them at a distance not less than five hundred feet nor more than one thousand feet from the location beacon and so as to be visible therefrom :

Provided that if either of such boundary lines is identical with a boundary line of an area which is held under an existing mining title, no direction beacon shall be required ;

(d) where a boundary line crosses a public road, a temporary beacon, which shall be known as a boundary beacon, shall be erected ;

(e) in pagan districts no flags are to be attached to the beacon poles without the consent of the divisional officer ;

Minerals

(f) a line of stones shall be made or a trench not less than one foot deep and one foot wide shall be dug for a distance of not less than ten feet from the beacon at each corner on the boundary lines forming the corner.

(2) Before an application is made for a mining right temporary beacons shall be erected to mark the highest and lowest points on the stream in respect of which the mining right is required.

(3) Before application is made for a water licence, a temporary beacon shall be erected at the proposed point of intake and at each point where the proposed watercourse crosses the boundary of a mining lease.

(4) An applicant for an exclusive prospecting licence, mining right or mining lease of his own initiative may, and when requested so to do by the Chief Inspector or the Director of Surveys shall, clear the boundaries of the area in respect of which he desires to obtain such licence and any such clearing shall be carried out in accordance with the following conditions :—

(a) the boundaries shall be cleared for a width of four feet ;

(b) protected trees shall not be felled unless the felling thereof is necessary for sights along the boundary line ; if felled the due fees and royalties thereon shall be paid.

Application
to be lodged
within
fourteen
days.

7. (1) Every person who erects any beacon on any land in respect of which he has not yet lodged an application for an exclusive prospecting licence, mining right, mining lease or water licence shall lodge such application with the Resident within fourteen days of the erection of such beacon :

Provided that the Governor⁽¹⁾ may for any good cause grant an extension of such period.

(2) If any person fails to lodge such application within the said period or extended period he shall immediately upon the expiration of such period notify the Chief Inspector of such failure and remove such beacon, and if he fails to do so the Chief Inspector may have the same removed and any magistrate may, in addition to imposing any penalty incurred for a breach of sub-regulation (1) or of this sub-regulation, order that the cost of removal be repaid by the defendant :

(1) Power delegated to Chief Inspector of Mines.

Minerals

Provided that compliance with this sub-regulation shall not relieve any person from any penalty incurred under sub-regulation (1).

8. (1) Any person desiring to obtain an exclusive prospecting licence, mining right, mining lease or water licence shall apply on the form prescribed in the First Schedule to these regulations to the Resident of the province in which the area desired is situated :

Application to the Resident to be on prescribed form. First Schedule.

Provided that the Governor,⁽¹⁾ where no question of priority is involved, may permit amendment of an application in the case of clerical errors or minor errors of computation and the time of such amended application shall be the original time of acceptance of the application.

(2) The applicant shall submit seven copies of his application.

Number of copies. Plans to be forwarded.

(3) (a) A plan of the area applied for as an exclusive prospecting licence, mining right or mining lease shall be forwarded with each copy of the application. The plan shall be drawn to a scale of 1 : 25,000 in the case of an exclusive prospecting licence and 1 : 5,000 in the case of a mining right or mining lease and such plan shall show—

(i) the position of the temporary beacons erected by the applicant in accordance with regulation 6 ;

(ii) the approximate magnetic bearing and distance from each beacon to the next beacon ;

(iii) all important local objects, landmarks, streams and buildings or groups of buildings, cocoa or palm oil plantations within the area ;

(iv) the topographical features including the courses and the names of rivers within or adjacent to the area as shown on the 1 : 125,000 topographical sheet covering the district in which the area affected by the application lies if such a sheet has been published :

Provided that if no 1 : 125,000 sheet has been published the pertinent sheet of the 1 : 500,000 map of Nigeria shall be substituted ;

(v) the position of the area in relation to all other areas held under mining title or certificate of occupancy within

⁽¹⁾ Power delegated to Chief Inspector of Mines.

Minerals

the area under application and within half a mile of the boundaries of the area under application ;

(vi) the position of all beacons erected under these regulations at the time of the erection of beacons by the applicant within the area under application and within a quarter of a mile of the boundaries of the area under application.

(b) The plan accompanying an application for a water licence shall give the following particulars :—

(i) the point of intake of the water, marked "A";

(ii) the point where the leat enters the lease or leases to be served, marked "B";

(iii) the point of exit of the leat from the lease or leases to be served, marked "C";

(iv) the point of return to the stream, marked "D";

(v) the course of the stream from which such water is taken and all other streams which will feed the proposed leat if the leat is not to be carried over such streams ;

(vi) the approximate position of the chief local objects, land marks and topographical features, such as villages or native settlements ;

(vii) the position of the work for which the water is required in relation to the boundary of any existing mining area, if there is any such within half a mile. The position of the points A and D shall be given, wherever possible, by bearing and distance from the nearest beacons and of the points B and C by bearings and distances from suitable beacons of the lease or leases to be served. The numbers of all such reference beacons shall be shown on the plan ;

(viii) the site of any dam, reservoir or pumping station whether on ground held by the applicant or not and the exact extent and area of any land flooded by such dam ;

(ix) the course of the proposed leat or line of pipes from the point A to the point D. The subsidiary system within the lease or leases to be served by such licence need not be shown ;

(x) the scale of such plan shall be 1 : 25,500.

Minerals

(4) Applications for exclusive prospecting licences, mining rights, mining leases and water licences shall be in the forms prescribed in the First Schedule to these regulations and shall in all cases quote approximate magnetic bearings, and the word "bearing" in every application shall be held to refer to the magnetic north only :

Forms of application; bearings magnetic. First Schedule.

Provided that applications shall not be disqualified if the bearings refer to true north or colony north.

(5) When making application the applicant shall pay to the Resident a deposit to cover the approximate charges—

Fees to be deposited.

(a) under the Survey Regulations ;

32 of 1934.

(b) under the Third Schedule of these regulations for preparation of the licence, right or lease ;

Third Schedule.

(c) under the Second Schedule of these regulations for the first year's rents ;

Second Schedule.

(d) under the Land Registration Ordinance.

Cap. 108.

(6) Where the actual expenses are less than the deposit the balance shall be returned to the applicant, and if the deposit is insufficient he shall pay the balance before the application is granted.

Balance of fees.

9. (1) Upon receipt of an application, the Resident may require the applicant or his representative to meet such officer as the Resident may nominate at such time, not being less than fourteen days after the intimation of such requirement, and at such place as the Resident may determine and to accompany such officer to the area for the purpose of inspection.

Applicant to point out area.

(2) The applicant shall bear all expenses occasioned by such meeting and inspection, including the cost of transport, guides, etc., and shall pay for any delay occasioned by him at the rate of four pounds a day.

10. If the Governor⁽¹⁾ considers there is unreasonable delay by the applicant in answering any letter addressed to him by Government in respect of such application, he may refuse such application without waiting for such letter to be answered.

Delay in supplying information.

11. (1) An applicant desiring to withdraw his application for an exclusive prospecting licence, mining right, mining lease or water licence shall pay the fee prescribed in the Third Schedule.

Withdrawal.

Third Schedule.

⁽¹⁾ Power delegated to Chief Commissioners.

Minerals

(2) No application for an exclusive prospecting licence shall be withdrawn if the applicant has, subsequent to the pegging of such exclusive prospecting licence, pegged within the area thereof a mining right or mining lease.

Financial security and survey deposit.

12. (1) When for any purposes security has been required under the Ordinance or these regulations and the applicant has failed to furnish such security, his application shall be refused.

(2) If any expense has been incurred by Government, in connexion with the survey of the area applied for, the survey fees deposited by the applicant shall be forfeited to Government in whole or in part as the Governor⁽¹⁾ may direct.

Time limit for completion of survey by applicant.

13. When in the case of any application for an exclusive prospecting licence, mining right or mining lease the Governor has given instructions that survey of the area applied for shall be made the applicant shall employ a licensed surveyor unless he has been notified by the Director of Surveys that the survey will be undertaken by him and such survey shall be completed within six months of the date of the instructions to survey and if not so completed the application may be refused.

Refusal of application where plan is defective.

14. (1) If the area applied for cannot be identified on the ground by means of the plan and the beacons erected, or if the area beaconed differs from the area applied for by twenty *per centum* or exceeds by twenty *per centum* the maximum allowed by the Ordinance or these regulations, the Governor⁽¹⁾ may refuse the application.

(2) If such application is refused, the unexpended balance of survey fees deposited shall be forfeited in whole or in part as the Governor⁽²⁾ may think fit.

Procedure in case of erroneous survey by applicant.

15. If the area of the land as beaconed, in respect of which an exclusive prospecting licence or a mining lease has been granted on a survey made by the applicant or his agent, is found to be at variance with the plan furnished by the applicant or his agent the Governor⁽¹⁾ may order the area to be surveyed by a Government surveyor and all charges for such survey will be borne by the holder of the exclusive prospecting licence, or lessee of the mining lease, who shall pay the same on demand.

⁽¹⁾ Power delegated to Chief Commissioners.

⁽²⁾ Power to decide if a title is refused under regulation 14 (1), whether the unexpended balance of survey fees shall be forfeited in whole or in part, delegated to Chief Commissioners.

Minerals

16. (1) The fees and deposits required to be paid or made in respect of the title for which application is made shall cover an application for a temporary title and no further fees or deposits shall be required in connexion therewith.

Deposit of fees on application for temporary title.

(2) An applicant for a temporary grant shall submit seven copies of his application.

Number of copies.

17. The applicant shall within one month after demand pay to the Accountant-General or other person appointed by the Governor the balance of all payments due, not met by any deposit in compliance with sub-regulation 8 (5), and any other payments which may be demanded, and in the event of the applicant failing to comply with the provisions of this regulation the Governor⁽¹⁾ may refuse the application.

Balance of payments.

18. All beacons, as required by the Survey Regulations, of an exclusive prospecting licence, mining right or mining lease shall be kept in good condition and repair by the holder or lessee and the holder or lessee shall at all times at each corner beacon and at each boundary beacon keep the boundary lines for a distance of fifty yards in each direction cut and cleared of vegetation for a width of four feet and shall, if required by an inspector, clear of vegetation all or any of the boundary lines, specified by any such officer.

Maintenance of beacons and boundary lines.
32 of 1934.

19. Within three months of the grant of an exclusive prospecting licence, mining right, mining lease or water licence, the holder or lessee shall clearly show at every beacon on the side facing outwards from his area the official number after the letters E.P.L., M.R., M.L. or W.L. as the case may be and the date of grant.

After grant numbers to be painted on beacons.

PART III

PROSPECTING

A.—Prospecting Rights

20. The Chief Inspector is hereby prescribed as the officer who may issue prospecting rights.

Prescribed officer.

21. Any person desiring to obtain a prospecting right shall make application therefor in the form prescribed in the First Schedule to these regulations to the Chief Inspector and shall give the particulars required in the form.

Application for a prospecting right.
First Schedule.

(1) Power delegated to Chief Commissioners.

Prospector
to inform
Resident.

22. Every holder of a prospecting right entering a province for the purpose of prospecting shall inform the Resident of his arrival at the earliest possible opportunity and in case of delay in informing the Resident the onus of proof that the prospector was unable to inform him earlier shall rest on the prospector.

Application
to retain or
dispose of
minerals.

23. (1) Application to retain or dispose of any minerals obtained in the course of prospecting shall be made in writing to the Chief Inspector, and shall state the kind and quantity of minerals in respect of which the application is made and the situation of the land from which the mineral was obtained, and shall furnish such other information as the Chief Inspector may require and shall be accompanied by the prescribed fee.

(2) The consent of the Chief Inspector to the retention or disposal of any mineral by the holder of a prospecting right or licence shall be in writing and shall specify the kind and quantity of the minerals which may be disposed of or retained.

Filling in of
excavations.

24. (1) Every holder of a prospecting right shall fill in or otherwise secure, to the satisfaction of the divisional officer, all shafts, wells, excavations or trenches made by him in the course of prospecting within six months of their being made unless before the expiry of that period he has made application for an exclusive prospecting licence or a mining right or a mining lease in respect of the area concerned.

(2) If such application is made but refused, the six months referred to in sub-regulation (1) shall begin to run from the date of the refusal.

B.—Exclusive Prospecting Licences

Shape of
exclusive
prospecting
licence.

25. (1) Save in a congested area, the area the subject of an exclusive prospecting licence shall be quadrilateral in shape and shall have a minimum width of not less than one-third of the length of its longest side and no angle shall be less than sixty degrees nor more than one hundred and twenty degrees :

Provided that, when it is desired that the boundaries shall correspond to those of other areas, the existing boundaries shall control the shape of the area : and

Provided further that the Director of Surveys may in his discretion direct that the beacons and boundaries shall conform with those already existing on the ground.

Minerals

(2) In a congested area the boundaries shall be straight lines and the other provisions of sub-regulation (1) shall not apply.

26. In the case of an exclusive prospecting licence the Governor may grant exemption from survey in respect of the whole or part of the boundaries or may postpone such survey for such time as he may think fit.

Exemption from survey in certain cases.

27. If the area of the land in respect of which an exclusive prospecting licence has been applied for is found by the surveyor to be greater or smaller than the area allowed by the principal Ordinance or these regulations the surveyor may, subject to the provisions of the Survey Regulations, in his discretion alter the position of the beacons in order to bring the area within the limit allowed.

Reduction or enlargement of area.
32 of 1934.

28. The expenditure by the holder of an exclusive prospecting licence for prospecting alone shall be at the rate of not less than one hundred pounds a square mile for each year of the licence.

Minimum expenditure on prospecting.

29. The Governor⁽¹⁾ may, on the application of the holder and for good cause shown, by writing under his hand suspend the obligation imposed by the last preceding regulation in respect of any licence for such time as the Governor may deem proper; and may in the same manner direct that any such period of time or any part thereof, shall not be reckoned in the currency of the licence, if during such period no work is done by the holder on the land included in the area covered by the licence.

Suspension of obligations.

30. (1) On the recommendation of the Chief Inspector the Governor⁽¹⁾ may, subject to the provisions of sub-regulation (3), permit the grouping of areas held under exclusive prospecting licences for the fulfilment of obligations and may after due notice revoke any permit so granted if he is satisfied that the holder is not effectively carrying out his obligations.

Grouping of obligations under exclusive prospecting licences.

(2) Where grouping of exclusive prospecting licences has been permitted the sum of the prospecting obligations on such exclusive prospecting licences shall be performed on some part of the area grouped.

Obligations spread over group.

(¹) Power delegated to Chief Inspector of Mines.

Grouping of
exclusive
prospecting
licences ;
conditions.

(3) The grouping of exclusive prospecting licences may be permitted on the following terms and conditions :—

- (a) application for such grouping shall be in respect of a calendar year ending on the thirty-first day of December, and shall be made before the fifteenth day of December in the previous year ;
- (b) the total area in respect of which application for such grouping is made shall not exceed twenty-four square miles ;
- (c) permission to include in the same group licences on which lode prospecting operations are being carried on and licences on which no lode prospecting operations are being carried on will not be granted ;
- (d) the obligations for a group shall be calculated on the area of each exclusive prospecting licence included in the group on the first day of January, and no allowance shall be made in respect of any period between the date of expiry of any included title and the thirty-first day of December next following ;
- (e) all exclusive prospecting licences in a group, except titles in their third year, shall on application being made be renewed for a further period of one year if the obligations on the group have been fulfilled :

Provided that if the obligations on a group are not fulfilled in their entirety by the thirty-first day of December none of the constituent exclusive prospecting licences shall be renewable ;

- (f) the obligations on a group of exclusive prospecting licences shall be calculated at the rate per square mile *per annum* on an exclusive prospecting licence as required by regulation 28 ;
- (g) consent to the assignment of an exclusive prospecting licence which is grouped shall not be granted unless the obligations have been fulfilled, which obligations shall be calculated on a full year's working, not at any proportionate rate per month.

Renewal or
surrender of
an exclusive
prospecting
licence.

31. Application for the renewal or surrender of an exclusive prospecting licence shall be made through the Chief Inspector.

Minerals

PART IV

MINING

A.—Mining Rights

32. (1) A mining right may be granted when the area to be mined consists of a river or stream and not more than one hundred yards on either side measured from the centre of the stream. Mining right; when granted.

(2) The beacons which mark the highest and lowest points on the part of a stream in respect of which a mining right is applied for or granted shall not be more than one mile apart measured in a straight line. Beacons.

(3) The applicant shall, if so required by the Chief Inspector, submit for inspection a plan on a scale not smaller than 1 : 2,500 showing all prospecting done on the area in respect of which application is made with the mineral values found and a statement of the ore reserves calculated from such prospecting. Prospecting plan.

(4) Where there is reason to believe that the mineral deposit is such as to justify an application for a mining lease, a mining lease may be granted provided that the applicant erects new beacons and complies with the other provisions of these regulations in respect of mining leases. Mining lease may be substituted.

33. Mining rights shall be of the following kinds :—

Class (i) In respect of a stream and the land lying within one hundred yards of the centre of the stream; Classes of mining rights.

Class (ii) In respect of a stream and the land on one bank lying within one hundred yards of the centre of the stream and such bank shall be specified in the mining right;

Class (iii) In respect of a stream within its natural banks.

34. Application for renewal of a mining right must be made through the Chief Inspector. Renewal of a mining right.

B.—Mining Leases

35. (1) Mining leases shall be of one or a combination of two or more of the following kinds :— Classes of leases.

Class A.—Metalliferous mineral and precious metal lode leases;

Class B.—Metalliferous mineral and precious metal alluvial leases;

Class C.—Precious stone leases;

Minerals

- 1. *mineral leases;*
- 2. *mineral leases;*
- 3. *shall confer upon the lessee the right to*
- 4. *mineral or minerals specified therein*
- 5. *shall confer upon the lessee the right to*
- 6. *all mineral or minerals specified*
- 7. *to A or B shall confer upon the lessee*
- 8. *approve of such mineral or minerals as*
- 9. *may in the case of any lease permit the*
- 10. *of any minerals found on the area of*
- 11. *shall be entered on the lease.*
- 12. *not to believe that the mineral deposit*
- 13. *application for a mining lease, a mining*
- 14. *provided that the applicant erects new*
- 15. *the other provisions of these regulations*
- 16. *shall not exceed the size estimated to*
- 17. *be probable extent of the ore bodies*
- 18. *be included in the lease and may be*
- 19. *right lease, which may be approved in*
- 20. *if so required by the Chief Inspector,*
- 21. *on a scale not smaller than 1:2,500*
- 22. *of the area in respect of which the*
- 23. *mineral values found and a statement*
- 24. *shall cover such prospecting.*
- 25. *shall apply to every lease wholly or*
- 26. *area and to any other lease in respect*
- 27. *of these*
- 28. *of the first six months of a mining*
- 29. *with temporary reasons such parts*
- 30. *of the area of his lease which he may*

Number 100
shall confer upon the lessee the right to exercise
power which is conferred upon the Chief

Minerals

propose to use or occupy for any purpose in connexion with his mining operations up to the thirty-first day of December next following.

(3) During the course of every year during which mining operations are carried on and not later than the thirtieth day of September, the lessee shall demarcate such further area as he may propose to use or occupy during the following year.

(4) The lessee shall thereupon notify the divisional officer of the demarcation and shall, if so required, point out to him the land so demarcated.

(5) The divisional officer shall cause such land to be measured and shall inform the lessee as to the surface rent which is payable by him under section 40 of the Ordinance in respect of such land, and shall at the same time assess the compensation payable under section 74 of the Ordinance.

(6) (a) The lessee may demarcate such area as four areas being—

(i) the area which it is intended to work during the months of January, February and March of the following year ;

(ii) the area which it is intended to work during the months of April, May and June of the following year ;

(iii) the area which it is intended to work during the months of July, August and September of the following year ;

(iv) the area which it is intended to work during the months of October, November and December of the following year.

(b) The measurement and assessment required by sub-regulation (5) of such four areas shall be carried out at one and the same time but any sums payable in respect of each of the four areas shall be paid quarterly in advance before work commences on the area concerned.

(7) Any sum payable under sub-regulations (5) and (6) shall be paid to the divisional officer.

(8) No holder of a mining lease to which this regulation applies shall use or occupy for any purpose in connexion with mining operations any land other than that demarcated in accordance with sub-regulations (2), (3) and (6) and no holder of a mining

lease shall use or occupy any land so demarcated until the measurement and assessment of surface rent and compensation prescribed by sub-regulation (5) has been made and sums so assessed have been paid.

Payment of surface rent.

38. The surface rent payable by the lessee of a mining lease under section 40 of the Ordinance shall be paid to the divisional officer.

Mining lessee shall not take rent.

39. The lessee of a mining lease shall not demand or receive any rent from any person residing on or occupying any portion of the area of such mining lease, whether such lessee pays rent for surface rights over the area so used or occupied or not.

Surface lease or right of occupancy may be required.
Cap. 105

40. (1) The Governor⁽¹⁾ in the case of Crown land or native land within the meaning of the Land and Native Rights Ordinance or the owner in the case of private land may require the lessee of a mining lease to accept a lease or right of occupancy, as the case may be, in respect of any land within the area of his mining lease which he may desire to use or occupy for any purpose in connexion with his mining operations.

(2) Every such lease or right of occupancy shall be granted for such term and subject to such reservations and conditions as the Governor⁽²⁾ may think proper.

Labour obligations.

41. (1) The lessee of a mining lease shall keep continuously employed in mining operations on the lease five persons for every two acres or part thereof included in the area of the lease in the case of Class A and five persons for every twenty acres or part thereof in the case of a lease of Class B :

Provided that in the case of a lease of Class B wholly or partly in a congested area, the lessee shall keep continuously employed in mining operations on the lease one person for every acre or part thereof.

Horse power equivalent.

(2) (a) Labour-saving apparatus calculated at the rate of one horse power to eight persons shall be accepted in substitution, *pro rata*, for the persons prescribed in sub-regulation (1).

(b) The horse power of such apparatus shall be determined in the following manner :—

⁽¹⁾ Power delegated to Chief Commissioners.

⁽²⁾ Power to determine the term, reservations and conditions of a surface lease or right of occupancy required under regulation 40 (1) delegated to Chief Commissioners.

Minerals

(i) for hydraulic monitors and any other plant whereby the force of water under pressure is utilised without the intervention of machinery the horse power is determined by the formula

$$HP = 0.017d^2\sqrt{p^3}$$

where "d" is the diameter of the nozzle in inches and "p" is the pressure in the full sized pipes at the rear of the nozzle in lbs. per square inch;

(ii) the horse power of all internal combustion or steam engines shall be the brake horse power declared in the maker's specifications.

(3) When advised by the Chief Inspector that mining operations are being vigorously and effectually carried on upon the area of a mining lease, and that the number of persons required by this regulation to be employed are not required for conducting such mining operations, the Governor may, if he so thinks fit and on such conditions as he may prescribe, in writing under his hand, modify either temporarily or for the remainder of the term the obligation imposed upon the lessee under this regulation with regard to the number of persons to be employed.

Modification of obligations.

(4) If the Chief Inspector is satisfied that mining operations are being carried on vigorously and effectually, and that owing to climatic conditions the number of persons required by this regulation cannot usefully be employed continuously he may, on such conditions as he may think fit, modify the obligations imposed by this regulation with regard to the number of persons to be employed during any period of the year and such modifications may at any time be withdrawn if the Chief Inspector thinks fit.

Seasonal modification.

(5) The Governor⁽¹⁾ may, if it be shown to his satisfaction that circumstances have arisen which render it necessary, by writing under his hand suspend on such conditions as he may prescribe and for such time as he may specify the obligations of a lessee to carry on mining operations as prescribed by this regulation.

Temporary suspension of obligations.

42. (1) The Chief Inspector may in his discretion permit the grouping of areas held under mining lease if—

Grouping of mining leases.

(a) the leases are of the same class;

⁽¹⁾ Power delegated to Chief Inspector of Mines.

Minerals

- (b) the minerals specified in the titles are the same or minerals which occur associated therewith ;
- (c) in the case of lode leases, if they are contiguous ;
- (d) in the case of alluvial leases, if—
- (i) they form a reasonable geographical unit for which a systematic scheme of work has been planned details of which together with such plans as may be required have been submitted to and approved by the Chief Inspector ;
- (ii) they are the subject of a large scale plan of systematic mechanised mining details of which together with such plans as may be required have been submitted and approved by the Chief Inspector :

Provided that the Chief Inspector may require that mining be concentrated on any mining lease or part of a mining lease of a group which lies wholly or partly within a congested area.

(2) Where grouping of mining leases has been permitted the sum of the working obligations on such mining leases shall be performed on some part of the group.

Doubt as to boundaries.

43. In the event of doubt arising as to whether mining operations are being performed within the boundaries of a mining right or mining lease an inspector may call upon the holder or lessee to define his boundaries and may cause the mining operations in question to be suspended forthwith until such boundaries have been defined to his satisfaction.

Dumps not to spread.

44. When overburden, tailing or other spoil is not deposited in a natural watercourse the holder or lessee shall retain all such overburden, tailing or spoil within his mining right, mining lease or within any right of occupancy granted for the purpose and shall, to the satisfaction of the Chief Inspector, secure such overburden, tailing or spoil from spreading beyond the boundary of the holder's mining right or certificate of occupancy or the lessee's mining lease.

PART V

TRIBUTERS

Tributers may be prohibited.

45. The Chief Inspector may, in the case of a holder of a mining right or lessee of a mining lease convicted of an offence against this Part, prohibit mining by tributers on any area the subject of a mining right or mining lease.

Minerals

46. (1) No holder of a mining right or lessee of a mining lease shall delegate to any person other than an accredited agent any of the obligations imposed by this Part. Accredited agent.

(2) No person shall be deemed to be an accredited agent unless the holder or lessee has first obtained written approval of such person from an inspector, who may in his discretion grant, refuse or revoke such approval.

(3) Any person aggrieved by such refusal or revocation may appeal first to the Chief Inspector and, if still aggrieved by the decision of the Chief Inspector, to the Chief Commissioner whose decision shall be final and no action or proceeding shall be maintainable in any court in respect of such refusal or revocation.

47. (1) The Chief Inspector shall on the application of any holder of a mining right or lessee of a mining lease who wishes to employ tributers issue on payment of the fee prescribed by these regulations to such holder or lessee a supply of enamelled or other metal tallies which shall be of a distinctive pattern and have a serial number on one side and no person shall be employed as a tributer unless issued with a tally. Tallies to issue to tributers.
Third Schedule.

(2) No two tallies shall bear the same serial number.

(3) The holder or lessee may paint or mark his name or a satisfactory abbreviation thereof on each such tally on the reverse side to the serial number.

(4) The holder or lessee shall distribute a tally to each tributer in his employ but the Chief Inspector may direct that the holder or lessee shall defer distribution until a mines officer can be present.

48. (1) Every holder of a mining right or lessee of a mining lease or his accredited agent shall keep a tributer's register in a securely bound book from which no pages may be removed and in which shall be recorded the name and birthplace of every tributer who works on any such right or lease together with the serial number and date of issue of the tally of each such tributer. Tributer's register.

(2) If an accredited agent has been appointed such tributers' register shall be in his possession, otherwise in the possession of the holder or lessee.

(3) Before the holder of a mining right or lessee of a mining lease or his accredited agent registers a tributer and issues to him a tally he shall make reasonable enquiry to ascertain that such tributer is not so registered with any other person.

Minerals

Unregistered
tributers not
to be
engaged.

49. No holder of a mining right or lessee of a mining lease shall employ any person as a tributer unless such person has been duly issued with a tally and registered as a tributer under the provisions of regulations 47 and 48.

Offences in
respect of
registration
and tallies.

50. (1) No person shall work as a tributer unless he is duly registered as such and is in possession, at the time and place of working, of a tally duly issued under the provisions of these regulations.

(2) No tributer shall be in possession of more than one tally or any tally other than his own, and no person other than a registered tributer shall be in possession of a tally :

Provided that the provisions of this regulation shall not apply to the possession of tallies by any person where such tallies have been issued to that person or his accredited agent by the Chief Inspector for the purpose of these regulations.

(3) A registered tributer in possession of a tally shall, on ceasing to work as a tributer for a period of five weeks or on ceasing to work for the person with whom he is registered, return his tally to such person.

Limitation of
hours during
which tri-
buters may
work and
move
mineral.

51. (1) Save as otherwise in these regulations provided, the holder of a mining right or lessee of a mining lease or his accredited agent shall not permit any tributer to mine or dress mineral between sunset and sunrise.

(2) A tributer shall not move any mineral between sunset and sunrise except mineral which has been received by the holder or lessee or his accredited agent and under the direct supervision of such holder lessee or accredited agent.

(3) A tributer may only move mineral between sunrise and sunset and within the boundaries of the mining right or mining lease within which the mineral was won, or a mining lease grouped therewith in accordance with regulation 42, or to the place of receipt as defined in regulation 55, but not otherwise.

Tributers
may work on
night shift
with per-
mission.

52. The holder of a mining right or lessee of a mining lease may permit tributers to work on an organised night shift if he has first obtained the written approval of an inspector, which may be given subject to such conditions as to the inspector may seem necessary.

Minerals

53. (1) No person shall receive any mineral from any person other than a tributer duly registered by the receiver, and such tributer shall, at the time of such receipt, be in possession of his tally the particulars of which shall be recorded by the receiver

Limitation on receipt of mineral.

Provided that the provisions of this sub-regulation shall not apply to persons duly authorised under section 68 of the Ordinance to purchase minerals, or, in the case of gold, to a licensed gold dealer or to a licensed goldsmith.

(2) Where mineral is received from a tributer in accordance with the provisions of these regulations the person so receiving shall weigh such mineral and remunerate the tributer therefor between the hours of sunrise and sunset.

(3) Every person receiving mineral from tributers in accordance with these regulations shall keep a tributers' mineral record in a securely bound book from which no pages may be removed and in which shall be recorded the mineral so received together with the name and tally number of each tributer and the quantity received from such tributer :

Tributers' mineral record.

Provided that books with perforated pages may be used if either the original or one copy remain bound in the book.

(4) If an accredited agent has been appointed such tributers' mineral record shall be in his possession, otherwise such book shall be in the possession of the holder or lessee.

54. Every tributer attending before the person to whom he may lawfully deliver precious mineral shall disclose to that person all precious mineral won by him and still in his possession.

Precious minerals to be disclosed.

55. (1) No person shall receive any mineral from a tributer save inside the boundaries of—

Place of receipt of mineral.

- (a) the mining right from which the mineral was won ; or
- (b) the mining lease from which the mineral was won or a mining lease grouped therewith in accordance with regulation 42 ; or
- (c) an area held under a right of occupancy, Crown grant or lease of private land approved for the purpose by the inspector ; such approval shall be in writing and shall state the registered number of such certificate of occupancy, Crown grant or lease of private land and such written approval shall be pasted without delay by the holder or lessee in the tributers' mineral record book.

Minerals

- (2) (a) Particulars of every change in the place of receipt shall be entered in the tributers' mineral record before any mineral is bought thereat and the entry shall be signed by the holder or lessee or his accredited agent with the time and date of signature ;
- (b) where an inspector considers that a holder or lessee or his accredited agent makes unnecessarily frequent changes in the place of receipt he may give written orders that such place of receipt shall not be again changed without his prior written authority and thereafter it shall be an offence to change such place of receipt without such written authority.
- (3) (a) No person shall receive mineral from tributers unless he has at the place of receipt at the time the tributers' register and the tributers' mineral record in respect of such tributors ;
- (b) an inspector, if he considers it necessary, may give written orders to the holder or lessee that the tributers' register and tributers' mineral record shall always be kept at the usual place of receipt of mineral and the holder or lessee shall arrange safe custody there.

Tributer to work only on area for which he is registered.

56. No tributer shall work or mine on any area other than the area in respect of which he is registered and in possession of a tally and no tributer may remove from any such area any mineral won thereon otherwise than in accordance with the provisions of regulation 55.

Offence of possession.

57. Subject to the provisions of section 66 of the Ordinance, any person, not being duly authorised, who is charged before a court with being in possession of mineral or, within the area of a mining right or mining lease, with being in possession of mining tools between the hours of sunset and sunrise and who does not give an account, to the satisfaction of the court, as to the purpose of such possession shall be guilty of an offence.

Possession of metalliferous mineral.

58. For the purposes of section 66 of the Ordinance in respect of metalliferous mineral no person shall be considered a duly authorised employee unless he is so authorised in writing or is a registered tributer in respect of the area for which he is registered.

Minerals

59. (1) For the purposes of section 66 of the Ordinance in respect of precious mineral no person shall be considered a duly authorised employee between the hours of sunset and sunrise unless he be an accredited agent duly authorised in accordance with regulation 46. Possession of precious mineral.

(2) No person shall receive or deal with any precious mineral between the hours of sunset and sunrise.

(3) The provisions of this regulation shall not apply to any licensed gold dealer or licensed goldsmith. Exemption.

60. (1) No person registered as a tributer shall work or be employed on an area held under an exclusive prospecting licence. Tributers not to be employed on an area held under an exclusive prospecting licence.

(2) No person shall remunerate any person in accordance with the quantity of mineral obtained in the course of prospecting operations.

61. (1) The holder of a mining right or the lessee of a mining lease shall delete forthwith from his register of tributers the name of any tributer who returns his tally or who is dismissed by such holder or lessee and where a tributer ceases to work for or to win mineral for any such holder or lessee for a period of five weeks such holder or lessee shall delete the name of such tributer from his register of tributers and shall notify the inspector in charge of the inspectorate concerned of the tally number of such tributer. Deletion from the register of tributer who ceases work.

(2) The holder of a mining right or the lessee of a mining lease shall return to the Chief Inspector tallies of which he does not intend to make further use.

62. Any person who contravenes or fails to comply with any of the provisions of this heading shall be guilty of an offence and shall be liable on conviction to a fine of two hundred pounds or to imprisonment for two years or to both such fine and imprisonment and in addition the court may order the forfeiture of any mineral illegally possessed or received or dealt with in contravention of the provisions of this heading. Penalty.

PART VI

WATER LICENCES

63. Within thirty days of the grant of a water licence, the temporary beacon required by regulation 6 (3) shall be moved to the actual point of intake. Beacons.

Minerals

PART VII

TAILING

Deposit of
tailing in a
watercourse.

64. The holder of a mining right or a mining lease, if the area covered by his right or lease gives access to a natural watercourse, may, within such area, deposit in the watercourse tailing from mining operations in such area :

Provided that the Governor may by order prohibit the deposit of tailing in any watercourse, or any part thereof, or may limit the extent of such deposit in such manner as he may think fit, and in such case may prescribe the manner of deposit of tailing from mines having access thereto :

Provided further that no such order shall come into force until two months after the date of the first publication thereof, unless the Governor shall, for special reasons stated in such order, otherwise direct.

PART VIII

RENTS AND FEES

Rents.
Second
Schedule.

65. (1) The rents set out in the Second Schedule shall be so paid but the Governor may, whenever he may think fit, reduce or remit either temporarily or for the remainder of the term the amount of any rents payable under this regulation.

Rent on
leases
granted
prior to these
regulations.

(2) The rents in force at the time of coming into force of these regulations shall continue to apply to leases granted prior to that date but rent for any period of renewal shall be the rent prescribed at the time of renewal.

Rents pay-
able
annually in
advance.

(3) (a) The rents payable under this regulation shall be payable annually in advance without demand and shall be paid to the Accountant-General, and shall be in addition to any royalties or any rents payable for surface rights.

(b) If the rents payable under this regulation are not paid within one month of becoming due an amount of twenty-five *per centum* of the amount due shall be added to the rent and shall be due and payable as if it were part of the rent :

Provided that a Chief Commissioner may on application remit the whole or a part of this penalty.

Fees.
Third
Schedule.

66. The fees in the Third Schedule shall be so paid except that the Governor may, whenever he may think fit, reduce or remit the amount of any fee payable under this regulation.

Minerals

PART IX

ROYALTIES

67. The royalties in the Fourth Schedule shall be so paid.

Royalties to be paid. Fourth Schedule.

68. (1) The computation of royalties shall be in accordance with the provisions of this regulation :—

Calculation of price.

(a) (i) in the case of metal ore or mineral, other than gold or diamond, mined and sold in Nigeria, on the average market price in London during the period of three months immediately prior to the first day of January, the first day of April, the first day of July or the first day of October, as the case may be, last preceding the date of sale ; or

On sales in Nigeria other than gold or diamond.

(ii) on the gross value realised by such sale as the Governor, either generally or in respect of any particular sale or class of sale, may direct ;

(b) (i) in the case of metal ore or mineral, other than gold or diamond, mined in Nigeria and exported, on the average market price in London during the period of three months immediately prior to the first day of January, the first day of April, the first day of July or the first day of October, as the case may be, last preceding the date of such exportation ; or

On exports other than gold or diamond.

(ii) in the case of export to any country other than the United Kingdom, such other price as the Governor, either generally or in respect of any particular case or class of case, may direct ;

(c) in the case of metal ore or mineral coming within the provisions of paragraph (b) the royalty may be paid, if so permitted by the Governor, upon exportation at the customs station through which the metal ore or mineral is exported :

Provided that so long as the Control of Tin (No. 3) Order, 1941, remains in force in the United Kingdom, the price at which tin is sold in the United Kingdom by or under authority from the Minister of Supply shall be deemed to be the market price in London. (*Proviso added by 37 of 1946.*)

(2) Notwithstanding the provisions of sub-regulation (1) in the case of metal ore or mineral in respect of which the royalty payable comes within the provisions of sub-paragraph (b) (i) of sub-regulation (1) the Governor in Council may direct that such

royalty shall be paid on any value being a lesser amount than the market price prevailing in London in respect of the period concerned.

On diamond

(3) In the case of diamond, on the valuation of a valuer approved by the Governor.

On gold.

(4) In the case of gold mined in Nigeria, whether sold in Nigeria or exported therefrom, in the manner and at the rate provided in paragraph 4 of the Fourth Schedule.

Fourth
Schedule.

On mica.

(5) In the case of mica on such sum as the Chief Inspector may from time to time assess as the local average value of mica :

Provided that in any case in which the person paying such royalty can prove by properly authenticated vouchers that the assessed value on which such royalty was paid is in excess of the actual price realised from the sale of the mica on which such royalty was paid after deducting from such sale value the cost of transport from the mine to the place of sale, the Chief Inspector of Mines shall refund the difference between the royalty charged and five *per centum* on such sale value after the aforesaid deduction has been made. Any claim to a refund under this regulation shall be made within six months of the dispatch of the mica from Nigeria.

Other cases.

(6) In any case not provided for above on the gross sum realised as stated on sales accounts, which shall be rendered to the Chief Inspector within six months of the date of the export certificate and the Chief Inspector may require that such sales accounts shall be from a member of the London Metal Exchange or, in the case of countries other than the United Kingdom, certified by a British consul or approved British bank.

Assay value
which
may be
assumed.

69. (1) For the purpose of computing royalty the value of tin ore shall be deemed to be 72.5 *per centum* of the value of metallic tin.

(2) For the purpose of computing royalty, mixed ore containing cassiterite wolfram or columbite shall be deemed to be tin ore. The exporter of such mixed ore shall, on furnishing satisfactory proof of the actual composition of such ore, be entitled to a refund of the difference between the royalty paid on such ore and that which would have been payable if the actual composition had been known at the time that the said ore was exported.

(3) (a) Lead ore shall be deemed to contain seventy eight *per centum* of lead ;

Minerals

(b) wolfram shall be deemed to contain sixty-five units of tungstic acid ;

(c) columbite shall be deemed to contain sixty-five units of combined columbic and tantallic pentoxides ($\text{Cb}_2 \text{O}_5$, $\text{Ta}_2 \text{O}_5$) :

Provided that written evidence that the ore is of lesser value may be submitted to the Chief Inspector who may, in his sole discretion, decide what shall be the value of the ore for the purpose of computing royalty.

(4) Gold shall be deemed to be fine gold :

Provided that if the gold is exported through an approved bank and the relevant assay certificate from the bank is received by the Chief Inspector within four months of the date of the export permit, the royalty shall be recalculated on the fine gold content and a refund be made of any excess paid.

70. (1) The Governor⁽¹⁾ may at any time require the holder of a mining right or the mining lessee to give security for due payment of any royalties payable under these regulations, in such sum as he may direct either by depositing the cash with the Accountant-General or by giving a banker's guarantee and in such case no mineral shall be disposed of or exported until such security has been given. Security for royalties.

(2) No ore or mineral mined in Nigeria or metal obtained therefrom shall be exported unless an export permit shall have been issued by the Chief Inspector stating that any royalty payable is paid or secured to his satisfaction : Export permit.

Provided that if the royalty is due upon exportation at the customs station such export permit shall be issued by the Comptroller of Customs and Excise.

71. (1) When a mining right or a lease is granted, the royalties payable under such right or lease shall be such royalties as may from time to time be fixed by regulation, save that in the case of a special mining lease the royalties shall be then declared in that lease. Royalties in force at the time.

(2) The Governor may reduce or remit the royalty payable on mineral ore produced from any lease in a congested area upon proof to his satisfaction that by so doing more mineral will be extracted.

⁽¹⁾ Power delegated to Chief Commissioners.

Minerals

PART X

ACCOUNTS, PLANS AND RETURNS

Accounts,
records and
plans.

72. The holder of every exclusive prospecting licence, temporary title and mining right, and the lessee of every mining lease shall keep at his principal office in Nigeria—

- (a) accurate and regular accounts ;
- (b) full particulars of all minerals obtained and the manner of their disposal ;
- (c) records of natives and non-natives employed in connexion with prospecting or mining operations in such a manner as to enable the returns required by regulation 74 satisfactorily to be rendered ;
- (d) the plans required by section 10 of the Ordinance and by Part XIII of the Safe Mining Regulations.

5 of 1946.

Revision of
plans.

73. The plans required to be kept by section 10 of the Ordinance shall be revised at least once in every three months and shall—

Exclusive
prospecting
licence.

- (1) In respect of an exclusive prospecting licence—
- (a) if alluvial—

- (i) show the position of all sample pits and boreholes, the depth to bedrock in the case of each and the overall value in respect of each mineral ;

- (ii) show all natural watercourses and prominent topographical features ;

- (iii) be to a scale of 1 : 2,500, 1 : 1,000 or 1 : 500 which scale shall be delineated on the plan ;

- (iv) show Magnetic or True North. If no beacon of the exclusive prospecting licence is shown in its position on the plan, the plan shall show a tie to such a beacon ;

- (b) if lode—

- (i) show all sample points and the assay value in respect of each mineral ;

- (ii) be to a scale of 1 : 500 in the case of plans or sections of underground workings and to the scale of 1 : 500 or 1 : 1,000 in the case of surface plans ;

- (iii) show Magnetic or True North. If no beacon of the exclusive prospecting licence is shown in its position on the plan, the plan shall show a tie to such a beacon.

Minerals

- (2) In respect of a temporary mining right or mining right— Mining right.
- (i) show the position of all sample pits and boreholes, the depth to bedrock in the case of each and the overall value in respect of each mineral;
 - (ii) show the river banks;
 - (iii) be to a scale of 1 : 2,500, 1 : 1,000 or 1 : 500 which scale shall be delineated on the plan;
 - (iv) show Magnetic or True North. If no beacon of the temporary mining right or mining right is shown in its position on the plan, the plan shall show a tie to such a beacon.
- (3) In respect of a temporary mining lease or mining lease— Mining lease.
- (a) if alluvial—
 - (i) show the position of all sample pits and boreholes, the depth to bedrock in the case of each and the overall value in respect of each mineral;
 - (ii) show all watercourses, dams and reservoirs;
 - (iii) show all buildings;
 - (iv) show railways, public roads and landing grounds;
 - (v) show all excavations;
 - (vi) be to a scale of 1 : 500 or 1 : 1,000 which scale shall be delineated on the plan;
 - (vii) show Magnetic North if a temporary mining lease and True North if a mining lease. If no beacon of the temporary mining lease or mining lease is shown in its position on the plan, the plan shall show a tie to such a beacon;
 - (b) if lode—
 - (i) show all sample points and the assay value in respect of each mineral;
 - (ii) show all watercourses, dams and reservoirs;
 - (iii) show all buildings;
 - (iv) show railways, public roads and landing grounds;
 - (v) show all excavations;
 - (vi) show in section all underground workings;
 - (vii) be to a scale of 1 : 500 in the case of underground plans and sections and to a scale of 1 : 500 or 1 : 1,000 in the case of surface plans;

(viii) show Magnetic North if a temporary mining lease and True North if a mining lease. If no beacon of the temporary mining lease or mining lease is shown in its position on the plan, the plan shall show a tie to such a beacon.

Scales.

(4) The scales prescribed in this regulation may be varied in any particular case by the Chief Inspector in writing.

Certified copies.

(5) The Chief Inspector may require any copies supplied in accordance with section 10 of the Ordinance to be certified in accordance with regulation 75.

Monthly returns.

74. (1) On or before the twentieth day of each month every holder of an exclusive prospecting licence or a mining right and every lessee of a mining lease shall send to the Chief Inspector a written statement in duplicate setting forth—

Exclusive prospecting licence.

(a) in the case of an exclusive prospecting licence—

(i) the month in respect of which the return is being made ;

(ii) the holder or attorney ;

(iii) the number and area of the exclusive prospecting licence or group ;

(iv) the mineral or minerals sought ;

(v) the average number of natives employed on prospecting on the area and the wages paid and the average number of non-natives on the area and the wages paid ;

(vi) the horse power used for power drilling and monetary equivalent ;

(vii) the number of feet of pitting and drilling respectively and cubic yards of other excavations during the month ;

(viii) when prospecting is done by underground methods, the precise nature of such and the footage of each kind during the month ;

(ix) any other particulars the Chief Inspector may require ;

(b) in the case of a mining right, mining lease or group of mining leases—

(i) the month in respect of which the return is being made ;

(ii) the holder or attorney ;

(iii) the province : mining rights, leases or groups of leases shall be entered by provinces and separate totals be given for each province ;

Mining right and mining lease.

Minerals

- (iv) the number of the mining right, lease or group ;
- (v) particulars of the native labour employed distinguishing between non-tributers and tributers and the manpower equivalent earned under sub-regulation (2) of regulation 41 and the number of non-natives ;
- (vi) particulars of the wages paid including leave pay to natives and non-natives respectively ;
- (vii) the amount of mineral won distinguishing between mineral won from lode and mineral won from alluvium ;
- (viii) the amount of mineral on hand at the end of the preceding month ;
- (ix) the amount of mineral won during the month ;
- (x) the amount of mineral dispatched during the month ;
- (xi) the amount of mineral on hand at the end of the month ;
- (xii) any other particulars the Chief Inspector may require.

(2) On or before the twentieth of February in each year every holder of an exclusive prospecting licence or a mining right and every lessee of a mining lease shall send to the Chief Inspector a written statement setting forth in respect of his prospecting and mining operations as a whole during the year ending the previous 31st December :—

Annual returns.

- (a) in respect of all the holders prospecting on exclusive prospecting licences—
 - (i) the average gross cost per foot of pitting ;
 - (ii) the average gross cost per foot of drilling with manual labour ;
 - (iii) the average gross cost per foot with drills ;
 - (iv) the average gross cost per cubic yard of other excavations ;
- (b) in respect of all the lessees mining on mining leases—
 - (i) the estimated average profit in respect of each ton or other appropriate unit for each mineral delivered to the buyer but calculated before allowing for amortisation of capital ;
 - (ii) in respect of any method of mining with regard to which the Chief Inspector requires the information, the cost of mining a cubic yard or a ton or other appropriate unit as the case may be ;

Exclusive prospecting licence.

Mining leases.

Minerals

(iii) the estimated disbursements in Nigeria in respect of local purchases and such other items as the Chief Inspector may reasonably require.

Authentica-
tion of certi-
ficates.

75. The certificate required by sub-regulation (5) of regulation 73 and by regulation 74 shall be signed and certified to be correct—
- (a) in the case of an individual holder or lessee resident in Nigeria, by the holder or lessee or his attorney;
 - (b) in the case of an individual holder or lessee not so resident, or in the case of a partnership or company having its head office out of Nigeria, by the resident attorney of the holder, lessee, partnership or company;
 - (c) in the case of a partnership having its head office in Nigeria, by all the partners or by the attorney for the partners;
 - (d) in the case of a company incorporated in Nigeria, by the manager or secretary of the company.

PART XI

MICA

Area of a
mica lease.

76. The area of a lease conferring the right to mine and dispose of mica hereinafter referred to as a mica lease shall not exceed fourty acres.

Labour
obligations.

77. The lessee of a mica lease shall keep continuously employed in mining operations on the land, the subject of such lease, five labourers for every four acres or part thereof included in the area of the lease, or labour-saving apparatus equivalent thereto calculated at the rate of one horse power to eight labourers, the horse power of such apparatus being determined in the manner prescribed in regulation 41.

PART XII

CARBONACEOUS MINERALS

Application.

78 This Part shall apply to lignite and to any other carbonaceous minerals to which they may from time to time be applied by regulation.

Doubt as to
lignite.

79. If any doubt arises as to whether any deposit is sub-bituminous coal or lignite the matter shall be referred to the Chief Inspector of Mines whose decision shall be final.

Exemption
from survey.

80. In respect of the area of any land to be included in a licence for an exclusive prospecting for lignite the Governor may grant exemption from survey. (*Amended by Public Notice 36 of 1946.*)

Minerals

81. The area of a carbonaceous minerals lease for the mining of lignite shall not be less than ten acres or more than one square mile. Area of a carbonaceous minerals lease.

82. Every carbonaceous minerals lease shall be subject to such conditions as the Governor may think fit to impose in regard to the obligations of the lessee in the working of the area of the lease. Working conditions.

PART XIII
MISCELLANEOUS

83. In the case of any appeal to the Governor under any of the provisions of the Ordinance or of these regulations, the Governor may, if he thinks fit, require all or any of the parties interested and any officer of the Mines Department who is cognisant of the facts, to set forth in an affidavit the facts affecting the matter the subject of such appeal. Procedure on an appeal to the Governor.

84. In any case of renewal of an exclusive prospecting licence, mining right, or mining lease where a new title deed is not required such renewal may be by endorsement on the original title deed. Renewal by endorsement.

85. (1) Any person who contravenes or fails to comply with the provisions of any of these regulations shall be guilty of an offence and liable on summary conviction to a fine not exceeding two hundred pounds or to imprisonment for two years or to both such fine and imprisonment and, in addition, where the offence is a continuing one, be liable to a fine of five pounds in respect of each day the offence continues. Offences and penalties.

(2) When under the provisions of these regulations a duty is placed upon any person the onus of proving that all reasonable steps have been taken to fulfil that duty shall lie upon the person charged with the breach thereof. Onus of proof.

FIRST SCHEDULE

INDEX OF FORMS

- I. Application for a Prospecting Right.
- II. Application for an Exclusive Prospecting Licence.
- III. Application for a Mining Right.
- IV. Application for a Mining Lease.
- V. Application for a Water Licence.

*Minerals*FIRST SCHEDULE—*continued*

NIGERIA

FORM I

The Minerals Regulations

APPLICATION FOR A PROSPECTING RIGHT

To the Chief Inspector of Mines.

Number of application.....
(To be filled in by Secretary)

1. Name of applicant.

2. Nationality of applicant.

3. Age of applicant.

4. Address in Nigeria at which notices
 may be served.

5. Whether the applicant intends to prospect
 on his own account or as an employee
 of any other person.

6. (i) If he is in the employ of any other
 person, state the name, nationality
 and address of such person.

(ii) If the application is made by an
 employee evidence of the employer's
 consent to the application.

7. Whether he has previously made an
 application for a prospecting right, and,
 if so, whether any such application
 was refused.

8. Whether the applicant or his employer
 (if any) has, since a prospecting right
 was last granted to him, had any licence,
 right or lease granted to him for the
 purpose of prospecting or mining in
 Nigeria, revoked or forfeited and the
 registered number of any such licence,
 right or lease.

*Minerals*FIRST SCHEDULE—FORM I—*continued*

9. Whether the applicant or his employer (if any) has, since a prospecting right was last granted to him, been convicted for any offence against the Ordinances (or regulations thereunder) set out in the Second Schedule of the Ordinance and the date of each conviction, nature of the offence and penalty imposed.

10. The part of Nigeria in which he intends to prospect. Provinces or divisions or districts.

11. The minerals for which he intends to prospect.

.....
(*Signature of Applicant*)

In consideration of the grant of the Prospecting Right applied for above to....., we the undersigned hereby agree to be answerable and responsible for all the acts and omissions performed or made by the said..... under or in respect of the said Prospecting Right and to pay to the Government any sum or sums of money that may at any time become due to the Government by the said..... under or in respect of the said Prospecting Right and to pay to the Government any sum or sums of money that may at any time become due to the Government by the said..... in respect of such acts and omissions.

Dated at this day of 19....

.....
Witness.

.....
(*Signature of partnership or of persons duly authorised to sign on behalf of Company*).

.....
Witness.

—————
NIGERIA

FORM II

The Minerals Regulations

APPLICATION FOR AN EXCLUSIVE PROSPECTING LICENCE

Reg. 8 of
4 of 1946.

To the Resident, Province.
Number of application.....

(*To be filled in by Secretary*)

*Minerals*FIRST SCHEDULE—FORM II—*continued*

1. Name of applicant.

2. Nationality of applicant.

3. Description of applicant.

4. Address in Nigeria, at which notices may be served.

5. Number of applicant's prospecting right.

6. Name of company, corporation, syndicate or person (if any) which the applicant represents

7. Position or appointment held by applicant in relation to, or under, such company, corporation, syndicate or person.

8. Date of erection of beacons.

9. Situation and approximate area (in square miles).

10. Minerals for which applicant desires to prospect.

11. Amount of deposit calculated by the applicant as payable in respect of survey fees.

12. Statement of (1) geographical position (by latitude and longitude) of the area and (2) the district (if any), and (3) the village area (if any), in which the area is situate and (4) the nearest village whose head is directly responsible for the collection of general tax, and (5) the approximate distance and bearing of this village—all as shown on the plan referred to in regulation 8.

A consecutive description of the boundary beginning at the location beacon:—

The location beacon consists.....and is situated

*Minerals*FIRST SCHEDULE—FORM II—*continued*

The direction beacon consists of.....and is situated (a).....feet approximately distant from the location beacon on an approximate magnetic bearing of (b).....degrees.

The first corner beacon consists of.....and is situated in the same line as the direction beacon and is (a).....feet approximately distant from the location beacon on an approximate magnetic bearing of (b).....degrees.

The second corner beacon consists of.....and is situated (a).....feet approximately distant from the first corner beacon on an approximate magnetic bearing of (b).....degrees.

The third corner beacon consists of.....and is situated (a).....feet approximately distant from the second corner beacon on an approximate magnetic bearing of (b).....degrees.

(c)

The (d).....corner beacon consists of.....and is (a).....feet approximately distant from the (e).....corner beacon on an approximate magnetic bearing of (b).....degrees and is (a).....feet approximately distant from the location beacon on an approximate magnetic bearing of (b).....degrees.

.....
(Signature of holder of prospecting
right or his employer)

Date....., 19....

I certify that the applicant has paid deposit fees of £ : :
Place..... Resident ..
Date..... Province ..
Name of company or syndicate (if any).
Name, nationality and description of members or directors (if any).
Amount of nominal capital subscribed and cash working capital.
Address in Nigeria at which notices may be served.

Is a copy of the memorandum and articles of association of the syndicate, corporation or company already lodged with the Secretary? If not a copy must be enclosed herewith.

(a) Here insert number of feet.

(b) Here insert number of degrees.

(c) In a similar manner the remaining corner beacons, if any, shall be described, each in reference to the preceding beacon ending with the last corner beacon.

(d) Here insert number of last corner beacon.

(e) Here insert number of preceding corner beacon.

*Minerals*FIRST SCHEDULE—*continued*

NIGERIA

FORM III⁽¹⁾*The Minerals Regulations*

APPLICATION FOR A MINING RIGHT

Reg. 8 of
4 of 1946.

To the Resident Province.
 Number of application.....
 (To be filled in by Secretary)

1. Name of applicant.
2. Nationality of applicant.
3. Description of applicant.
4. Address in Nigeria at which notices may be served.
5. Number of applicant's prospecting right or exclusive prospecting licence.
6. Name of company, corporation, syndicate or person (if any) which the applicant represents.
7. Position or appointment held by applicant in relation to, or under, such company, corporation, syndicate or person.
8. The name and situation of the stream and the direct distance in yards and the magnetic bearing from the lower to the upper beacon.
9. The date on which the beacons defining the area were erected, and a description as to the position of the beacons.
10. As to whether the area is included within the area of an exclusive prospecting licence.
11. As to whether the area has been prospected by the applicant, and if so for what period or with what results.

(¹) A new Form III has since been substituted by Public Notice 173 in Gazette 56 of 1948.

*Minerals*FIRST SCHEDULE—FORM III—*continued*

12. The alluvial mineral or minerals in respect of which the mining right is required and the class of mining right desired.
(*Added by Public Notice 54 in Gazette 18 of 1946.*)

13. The intended method of working.

14. Statement of (1) geographical position (by latitude and longitude) of the area and (2) the district (if any), and (3) the village area (if any), in which the area is situate and (4) the nearest village whose head is directly responsible for the collection of general tax, and (5) the approximate distance and bearing of this village—all as shown on the plan referred to in regulation 8.

Name of company or syndicate (if any).

Name, nationality and description of members or directors (if any).

Amount of nominal capital subscribed and cash working capital.

Address in Nigeria at which notices may be served.

Is a copy of the memorandum and articles of association of the syndicate, corporation or company already lodged with the Secretary? If not, a copy must be enclosed herewith.

.....
(*Signature of holder of prospecting right, exclusive prospecting licence or his employer*)

NIGERIA

FORM IV

The Minerals Regulations

APPLICATION FOR A MINING LEASE

Reg. 8 of
4 of 1946.

To the Resident.Province.

Number of application.
(*To be filled in by Secretary*)

1. Name of applicant.

2. Nationality of applicant.

*Minerals*FIRST SCHEDULE—FORM IV—*continued*

-
3. Description of applicant.
-
4. Address in Nigeria at which notices may be served.
-
5. Number of applicant's exclusive prospecting licence or prospecting right.
-
6. Name of company, corporation, syndicate or person (if any) which the applicant represents.
-
7. Position or appointment held by applicant in relation to, or under, such company, corporation, syndicate or person.
-
8. Date of erection of beacons.
-
9. Area.
-
10. Class of mining lease desired and mineral or minerals to be mined.
-
11. The length of term desired.
-
12. Amount of deposit calculated by the applicant as payable in respect of survey fees.
-
13. Statement of geographical position of the area and its position in regard to some town, village or river crossing or junction on the sheets of the 1 : 250,000 or the 1 : 500,000 map of Nigeria and name of village whose village head collects taxes (if any) in area applied for.
-

A consecutive description of the boundary beginning at the location beacon :—

The location beacon consists of.....and is situated

*Minerals*FIRST SCHEDULE—FORM IV—*continued*

The direction beacon consists of.....and is situated (a).....feet approximately distant from the location beacon on an approximate magnetic bearing of (b).....degrees.

The first corner beacon consists of.....and is situated in the same line as the direction beacon and is (a).....feet approximately distant from the location beacon on an approximate magnetic bearing of (b).....degrees.

The second corner beacon consists of.....and is situated (a).....feet approximately distant from the first corner beacon on an approximate magnetic bearing of (b).....degrees.

The third corner beacon consists of.....and is situated (a).....feet approximately distant from the second corner beacon on an approximate magnetic bearing of (b).....degrees.

(c)

The (d).....corner beacon consists of.....and is situated (a).....feet approximately distant from the (e).....corner beacon on an approximate magnetic bearing of (b).....degrees and is (a).....feet approximately distant from the location beacon on an approximate magnetic bearing of (b).....degrees.

.....
(Signature of holder of prospecting right,
exclusive prospecting licence or his
employer)

Date....., 19....

I certify that the applicant has paid deposit fees of £ : :

Place..... Resident

Date.....19.... Province

Name of company or syndicate (if any).

Name, nationality and description of members or directors (if any).

Amount of nominal capital subscribed and cash working capital.

Address in Nigeria at which notices may be served.

Is a copy of the memorandum and articles of association of the syndicate, corporation or company already lodged with the Secretary? If not, a copy must be enclosed herewith.

(a) Here insert number of feet.

(b) Here insert number of degrees.

(c) In a similar manner the remaining corner beacons, if any, shall be described, each in reference to the preceding beacon ending with the last corner beacon. In cases where the area consists of a series of rectangles, location and direction beacons are required only for the first rectangle and the remaining rectangles must be described in relation to the first rectangle.

(d) Here insert number of last corner beacon.

(e) Here insert number of preceding corner beacon.

Minerals

MINERALS continued

NIGERIA

Form 1

The Minerals Regulations

APPLICATION FOR A WATER LICENSE

Name of applicant, Province.
Address of applicant,
(To be filled in by Secretary)

Name of applicant,

Qualification of applicant,

Description of applicant,

Areas in Nigeria at which services may be rendered,

Name of company, corporation, syndicate or persons (if any) which the applicant presents,

Position or appointment held by applicant in relation to, or under such company, corporation, syndicate or person,

Length and width in feet of (a) the hole proposed to be bored, and (b) that portion lying outside ground held by the applicant under mining lease or prospecting licence, in respect of which the applicant has been granted a temporary mining lease; (c) that portion of the hole to be held by any person other than the applicant under a mining lease or prospecting licence of which any such person has been granted a temporary mining lease,

The number of any mining lease, mining licence or exclusive prospecting licence through which it is proposed to divert the water,

The position of any dam required in connection with the water licence and the area that will be covered by the impounded water,

*Minerals*FIRST SCHEDULE—FORM V—*continued*

10. The position of a pumping station, if any, and if on ground other than that held under lease by the applicant, the area occupied by such pumping station.
11. Whether the water diverted will be returned to the stream or river from which it was derived.
12. The estimated maximum and minimum flow of water required in cubic feet per second, and if for hydraulicing, the estimated pressure in lb. per square inch at point of delivery and the horsepower that will be developed, respectively.
13. The length of term desired if the water licence is to expire before the mining lease or leases in respect of which it is required.
14. Area or areas in respect of which the water licence is required.

Name of company or syndicate (if any).

Name, nationality and description of members or directors (if any).

Amount of nominal capital subscribed and cash working capital.

Address in Nigeria at which notices may be served.

Is a copy of the memorandum and articles of association of the syndicate, corporation or company already lodged with the Secretary? If not, a copy must be enclosed herewith.

.....
(Signature of Applicant)

SECOND SCHEDULE

RENTS

	£	s.	d.	
1. (a) By the holder of an exclusive prospecting licence for every square mile or part thereof	5	0	0	On an exclusive prospecting licence.
(b) By the holder of an exclusive prospecting licence for lignite only for every square mile or part thereof ..	0	2	0	
2. By the holder of a mining right, for every hundred yards or part thereof measured in a straight line between the upper and lower beacons :				On a mining right.

Minerals

SECOND SCHEDULE—*continued*

		£	s.	d.
	(a) if granted in respect of a stream bed within its natural banks	0	10	0
	(b) if granted in respect of a stream bed and one bank ..	0	15	0
	(c) in all other cases	1	0	0
On a mining lease.	3. By the lessee of a mining lease :			
	(a) in the case of a lease in classes A, B or C an acre or part thereof	0	3	0
	(b) in the case of a lease in class D an acre or part thereof ..	0	0	6
	(c) in the case of a lease in class E such rent as may hereafter be prescribed by regulation :			
	Provided that the rent on a mica lease on each acre or part thereof shall be	0	1	0
	Provided further that the rent on a carbonaceous minerals lease on each acre or part thereof shall be	0	0	6
On a water licence.	4. By the holder of a water licence, a rent calculated on the volume of water the conveyance of which is granted by the licence at the rate of one pound <i>per annum</i> per cubic foot per second, save that no rent shall be payable in respect of a water licence which only confers the right to divert water from its natural channel and return it thereto, if between the points of intake and return the natural channel lies entirely within the area held or applied for on mining lease by the holder of the water licence.			

THIRD SCHEDULE

FEES

	£	s.	d.
Prospecting Rights	5	0	0
Prospecting Rights for lignite only	1	0	0
For sanction to assign a mining lease or an exclusive prospecting licence or mining right or water licence or any right or interest thereunder	2	0	0
On surrender of an exclusive prospecting licence ..	Nil		
On surrender of a part of a mining lease	Nil		
On surrender of a mining lease	Nil		
On surrender of a water licence	Nil		
On renewal of an exclusive prospecting licence or mining right	2	0	0
On the renewal of a mining lease	10	0	0
For permission to lessee to dispose of minerals other than those specified in lease	2	0	0
For sanction to suspend mining operations on the area of a mining right or mining lease, or prospecting operations on an exclusive prospecting licence ..	5	0	0
For sanction to vary the number of persons employed for climatic reasons	0	5	0

Minerals

THIRD SCHEDULE—continued

	£	s.	d.
For sanction to group or vary the grouping of exclusive prospecting licences or mining leases	0	10	0
For permission to the holder of a prospecting right or exclusive prospecting licence to remove, retain or dispose of minerals	0	5	0
For a licence to purchase minerals	5	0	0
Or if granted after 30th June in any year	2	10	0
For the preparation of an exclusive prospecting licence or a mining right	2	0	0
For the preparation of a mining lease	2	0	0
For the preparation of a water licence	2	0	0
For a tributer's tally	0	0	3

Threepence will be refunded for each tally returned to the Chief Inspector in usable condition.

The fees payable upon withdrawal of an application shall be :—

- (a) Upon withdrawal of an application after the grant of a temporary title in respect thereof :—
- | | £ | s. | d. |
|------------------------------------|----|----|----|
| (i) if for a mining right | 25 | 0 | 0 |
| (ii) if for a mining lease | 40 | 0 | 0 |
- (b) In any other case upon withdrawal of an application for a prospecting right, exclusive prospecting licence, mining right, mining lease or water licence (except upon good cause shown to the satisfaction of the Chief Inspector)
- | | | | |
|--|---|---|---|
| | 5 | 0 | 0 |
|--|---|---|---|
- (c) The withdrawal fee may be deducted from any deposit made by the applicant, without prejudice to other remedies, civil or criminal.

FOURTH SCHEDULE

ROYALTIES

- On tin ores and metallic tin, when the value per ton of metallic tin is :—
 - Less than £180, the royalty will be 2 per centum on the value.
 - £180, but not less than £190, the royalty will be 3 per centum on the value.
 - £190, but less than £200, the royalty will be 4 per centum on the value.
 - £200, but less than £220, the royalty will be 5 per centum on the value.
 - £220, but less than £240, the royalty will be 6 per centum on the value.
 - £240, but less than £260, the royalty will be 7 per centum on the value.
 - £260, but less than £280, the royalty will be 8 per centum on the value.
 - £280, but less than £300, the royalty will be 9 per centum on the value.
 - £300, or upwards, the royalty will be 10 per centum on the value.

*Minerals*FOURTH SCHEDULE—*continued*

2. On lead ores or metallic lead containing on an average less than four ounces of silver per ton, 2 *per centum* on the value. If containing more than four ounces of silver per ton an additional 3 *per centum* on the value of the silver.
3. On tungsten ore and columbium ore, when the value per unit :—
Does not exceed thirty-five shillings, the royalty will be 1 *per centum* on the value.
Exceeds thirty-five shillings, the royalty will be 1 *per centum* on the value plus one-tenth *per centum* for every shilling or fraction of a shilling by which the value exceeds thirty-five shillings, but so that no royalty shall be payable at a higher rate than 5 *per centum* on the value.
4. (a) On gold, when the price per ounce of gold is :—
less than £5 the royalty will be 4 *per centum* on the value ;
£5, but less than £6, the royalty will be 5 *per centum* on the value ;
£6, but less than £7, the royalty will be 6 *per centum* on the value ;
£7, but less than £8, the royalty will be 8 *per centum* on the value ;
£8, or upwards the royalty will be 10 *per centum* on the value,
payable in the calendar month succeeding that in which the gold was recovered from the ore ;
(b) On other precious metal 6 *per centum* on its value.
5. On diamond 10 *per centum* of its value.
6. On lignite 1½d. a ton mined.
7. On mica 5 *per centum* of its value.

REGULATIONS UNDER SECTION 120 OF THE MINERALS ORDINANCE.

THE SAFE MINING REGULATIONS

ARRANGEMENT OF REGULATIONS

PART I

PRELIMINARY

1. Short title.
2. Definitions.

PART II

MACHINERY

3. Report of bringing plant into use.
4. Competent engineer to be in charge.
5. Fencing, etc., not to be removed.
6. Inspection of plant.
7. Directions of inspector as to plant.
8. Boilers, etc., to be in good condition.
9. Exposed machinery to be fenced.

Minerals

10. Loose clothing prohibited and no repairing under risk.
11. Friction clutches.
12. Air compressors.
13. Safety valves.
14. Dangerous places to be fenced.

PART III

ELECTRICITY

15. Inspection of electrical installations.

PART IV

EXPLOSIVES

16. Application of this Part.
17. Explosives for contractors.
18. Explosives not to be stored in closed-down mine.
19. Explosives stored underground; storage boxes and permitted quantities.
20. Only explosives supplied by employers to be used.
21. Explosives to be kept in wooden boxes.
22. Notice of explosives to winding engine driver.
23. Conveyance of explosives in shafts.
24. Carrying explosives.
25. (1) Mining blasting certificates.
(2) Prescribed officer.
(3) Fees.
(4) Issue.
(5) Types of certificate.
(6) Renewal.
(7) Variation.
(8) Unauthorised endorsements.
(9) Holder's signature or thumb print required.
(10) Obtaining mining blasting certificate by false representation.
(11) Replacement of lost certificate.
(12) Suspension and cancellation of certificate.
26. Certificate to be retained by manager.
27. (1) Only a shot-firer may blast.
(2) Preparing and firing charges.
(3) Simultaneous firing.
28. (1) Loose ground to be removed before drilling.
(2) Working place to be examined.
29. Gang headman must first enter working place.
30. When connexions are 30 feet apart.
31. Resumption of work after blasting.
32. Validity of existing certificates.
33. Carbide.

Minerals

PART V

MINING : OPENCAST AND ALLUVIAL

34. Angle of slope.
35. (a) Safety man to be stationed.
(b) Spoil not to be deposited near edge.
36. Mine face to be stepped in benches.

PART VI

MINING : PROTECTION OF SURFACE

37. Protection of surfaces where subsidence or cavities.
38. (1) Pillars to be left.
(2) Chief Inspector of Mines may grant permission to excavate ground under surface objects.
(3) Permission to tunnel through pillars.
39. Illegal excavations to be filled in.
40. (1) Prospecting trenches and pits.
(2) Filling in or fencing dangerous prospecting works.
(3) Procedure in case of neglect to comply.
41. Protection of disused shafts and mine entrances, etc.
42. Responsibility for old excavations.

PART VII

MINING : UNDERGROUND

43. Application to loto mining.

A.—Fire

44. (1) Thatch or wood not to be used.
(2) Inflammable material not to accumulate.
(3) Care with naked lights.

B.—Shafts

45. Ladders and ways of exit.
46. Ladders to be provided in single shaft.
47. Distance between shafts.
48. Underground entrances to abandoned workings to be fenced.
49. Travelling ways to be bratticed.
50. Ladders.
51. (1) Special travelling way.
(2) Use of other ways by persons doing repairs.
52. Carrying tools, etc., in ladder way prohibited.
53. Fencing of entrances to shafts, winzes, etc.
54. Loose material near unprotected edges prohibited.
55. Guides for bucket, cage or skip.
56. Provision for workmen passing from one compartment to another.
57. Entering winding compartment prohibited.
58. Shaft pillars.
59. Sinking shafts.
60. Ladders in sinking shafts.
61. Protection of persons in sinking shafts.

*Minerals**C.—Winding*

62. Windlasses, kibbles, etc. ; precautions in using.
63. Shaft covers to be self-closing where cages used.
64. Securing of projecting materials during winding.
65. Winding engine driver's seat.
66. Entering engine house prohibited.
67. (1) Winding engine brakes.
(2) Spare parts.
(3) Testing of brakes by inspector.
68. Connexion between rope and cage or skip.
69. Winding ropes.
70. Winding during repairs.
71. Shaft signalling apparatus.
72. Signal to be received before winding.
73. (1) Winding signals.
(2) Pause with mechanical signals.
(3) Pause before acting on signals.
(4) Signals not understood to be repeated.
74. Notice boards to show signals.
75. Special blasting signals.
76. (1) Winding persons ; permission required.
(2) Riding in buckets.
(3) Special conditions before permission granted.
(4) Height to headgear and necessary clearance.
(5) Quality of winding ropes.
(6) Samples of winding ropes to be supplied.
(7) Ropes and connexions to be tested.
(8) Safety catches required ; doors for cages.
(9) Flanges on drums.
(10) Minimum amount of rope on drums.
(11) Reliable depth indicator necessary.
(12) Changes of gradient to be indicated.
(13) Speed indicator may be required.
(14) (a) Automatic device to prevent over-winding.
(b) Maximum speed where automatic device not applicable.
77. Exemption for prospecting shafts.
78. (1) Regulations where winding persons permitted.
(2) Defects to be made good.
(3) Machinery book to be kept.
79. Spare ropes to be kept.
80. (1) Riding on partly loaded bucket, cage or skip prohibited.
(2) Changing position prohibited.
(3) Trial trip after repairs.
81. Duties of banksmen and onsetters.
82. Speed when winding persons.
83. Materials not to be carried with persons.
84. (a) Hoist drivers for winding persons.
(b) Medical examination.
85. (1) Licensing of hoist drivers.
(2) Learner drivers.

*Minerals**D.—Underground—General*

- 86. Underground entrances to be fenced.
- 87. (1) Protection against falling materials.
(2) Danger to be reported.
- 88. (1) Securing of unsafe workings.
(2) Reserve of timber.
- 89. (1) Safety pillars between adjoining properties.
(2) Weakening or removal of safety pillars.
- 90. (1) Advance boreholes when approaching water or gas.
(2) Explosives not to be used in fiery mines.
- 91. Disused workings to be examined before reopening.

E.—Ventilation

- 92. Ventilation to be sufficient.
- 93. Air measurements to be taken.
- 94. Ventilation doors.

F.—Laying of Dust

- 95. Percussive drills.
- 96. Coal dust.
- 97. Treatment of coal dust.

G.—Lighting

- 98. Stationary lights.
- 99. Unfenced machinery to be lighted.
- 100. Movement without lights prohibited.

H.—Haulage

- 101. Manholes to be provided.
- 102. Space between rails to be kept clear.
- 103. Riding on tubs.
- 104. Haulage appliances.
- 105. Runaway switches.
- 106. Haulage signals.

PART VIII

DREDGING

- 107. Dinghy to be provided.
- 108. Mooring ropes.

PART IX

COAL MINES

- 109. Application of this Part.
- 110. Qualifications of officials.
- 111. Appliances non-sparking.
- 112. Inspection and reports on workings.
- 113. Withdrawing timber.
- 114. Safety apparatus.
- 115. Rescue teams.
- 116. Guidance to manager.

Minerals

PART X

WORKMEN

117. Record of employees to be kept.
118. Miners' hats.
119. First aid.
120. Cyanide antidote.
121. Sleeping forbidden.
122. Tuberculosis and leprosy.
123. Intoxication : intoxicating liquor.
124. Unauthorised persons prohibited.
125. Sanitation underground.
126. Passing danger signals prohibited.
127. Negligent behaviour.

PART XI

SAFE DISPOSAL OF WASTE

128. Injurious solutions.
129. Sand filling.
130. Slimes.

PART XII

RESPONSIBILITY

131. Duties of persons in charge.
132. Responsibility for working.
133. General responsibility.
134. Accident by reason of incompetence.
135. Safety and discipline.
136. Orders by mines officers.
137. Sanitation.
138. Storage and supplies of explosives, etc.
139. Materials and appliances.
140. Qualifications of manager of coal mine.

PART XIII

PLANS NECESSARY FOR SAFETY

141. (1) Plans to be kept.
 - (a) Surface.
 - (b) Underground.
 - (c) Ventilation.
 - (d) Electrical installations.
- (2) Plans prior to these regulations.
142. Copies to be deposited with the Chief Inspector of Mines.
143. Transverse sections of shafts.
144. (1) Plans not kept up.
 - (2) Copies of plans not sent.
145. Plans not to be made public.
146. Abandonment of mine.

Minerals

PART XIV

General.

141. Obligation to remedy any dangerous practices.
 142. Offences and penalties.

FIRST SCHEDULE

- Form I. Application for mining blasting certificate.
 Form II. Mining blasting certificate.

SECOND SCHEDULE

Shaft Pillars formula.

THIRD SCHEDULE

Code of Signs.

Safe Mining Regulations

PART I

PRELIMINARY

1. These regulations may be cited as the Safe Mining Regulations.

2. In these regulations unless the context otherwise requires—
 "agent" is a person holding a power of attorney in accordance with section 9 of the Minerals Ordinance ;

"banksman" means a person who is appointed by the manager to be stationed at the shaft top to supervise the loading and unloading of persons and materials in the cage, skip or bucket and to give the necessary signals to the winding engine driver ;

"Electrical Engineer-in-Chief" shall have the meaning assigned to it from time to time in the Electricity Supply Regulations ;

"fery mine" means a mine in which inflammable gas has been found within the preceding six months in quantity exceeding one volume in a hundred in any return airway ;

"gang headman" means the labourer in charge of a gang. If there is any doubt whether a particular labourer in the gang is in charge, the responsibility of the gang headman shall devolve upon the manager ;

"zone power" shall have the meaning from time to time assigned to it in regulation 41 of the Minerals Regulations ;

"*lata* mining" means the extraction of alluvial deposits, situated not more than seventy feet vertically below the surface, by underground mining methods ; (*Inserted by 18 of 1947.*)

Minerals

- “machinery book” means a book so inscribed upon the cover and retained in the manager’s possession and in which shall be entered the matters required by these regulations ;
- “manager” means the person registered under these regulations as responsible for the safety, welfare, health and housing conditions of persons employed in prospecting or mining operations, and when no person has been so registered it shall mean the holder or lessee or his attorney ;
- “onsetter” means a person appointed by the manager to be stationed at an intermediate station in the shaft or at the shaft bottom station to supervise the loading and unloading of persons and materials in the cage, skip or bucket and to give the necessary signals to the winding engine driver ;
- “opencast” means a working in which excavation is performed from the surface or which is exposed to the open air ;
- “primer cartridge” shall have the meaning assigned to it from time to time in the Explosives Regulations ;
- “shot-firer” means the holder of a valid mining blasting certificate issued in accordance with these regulations ;
- “steeply inclined” in connexion with shafts or other underground excavations shall mean an inclination to the horizontal of forty-five degrees or more.

6 of 1946.

PART II

MACHINERY

3. The lessee of a mining lease or his agent shall report to the inspector at least fourteen days prior to bringing into use for the first time or after having been out of use for twelve consecutive months any steam, oil or gas engine, or any hydraulic plant for the generation of power, the nature of the plant together with the indicated horse power and the purpose for which it is to be used.
(Amended by 18 of 1947.)

Report of bringing plant into use.

4. Any plant, the brake horse power of which is over twelve, shall be directly under the charge of a competent person :

Competent engineer to be in charge.

Provided that this regulation shall not be deemed to exonerate the lessee and his agent from responsibility for seeing that any plant of twelve horse power or less is used only under proper supervision.

Minerals

Fencing, etc.,
not to be
removed.

5. No person, not properly authorised in that behalf, shall remove or render useless any fencing, means of signalling, signal chain, flange, brake, indicator, ladder, platform, steam-gauge, water-gauge, safety-valve, or anything in any mine provided for the safety of any person.

Inspection
of plant.

6. (1) An inspector may at any time require a lessee of a mining lease or his agent to prepare a boiler, engine or other plant for his inspection and shall give not less than one week's notice in writing of the date on which he intends to hold the inspection.

(2) The machinery book shall always be accessible to the inspector.

Direction of
inspector as
to plant.

7. (1) If on examination a boiler is found to be in a condition from which immediate danger may arise, an inspector may order the working of such boiler to be discontinued provisionally, and the boiler shall not be used again before it has been properly repaired and permission again to use it has been obtained from the inspector.

(2) In case of objection to any instruction or decision given by an inspector regarding any thing or practice in connexion with machinery or boilers or any part thereof not provided for by any provisions of these regulations the manager may within twenty-one days lodge a written appeal with the Chief Inspector.

Boilers, etc.,
to be in good
condition.

8. All boilers, engines, ladders, windlasses, brakes, ropes, winding gear and other mechanical appliances shall be kept in good condition and repair to the satisfaction of the inspector.

Exposed
machinery
to be fenced.

9. All exposed machinery, which when in motion may be dangerous to persons, must be securely fenced off so that no person can inadvertently come into contact with or be injured by reason of the same, and efficient guards shall be provided to the satisfaction of the inspector to such parts of machinery as may in his opinion be a source of possible danger to persons.

Loose
clothing.

10. (1) Persons engaged in close proximity to moving machinery shall not be allowed to wear loose outer clothing.

No repairing,
etc., under
risk.

(2) The repairing, adjusting, cleaning or lubricating of machinery in motion shall not be undertaken where there is a risk of personal injury.

Friction
clutches.

11. Belt-driven machinery which it is necessary to stop and start without interfering with the speed of the prime mover shall be permanently fitted with a satisfactory mechanical appliance

Minerals

for the purpose and shipping and unshipping driving belts whilst the machinery is in motion is forbidden, with the exception of the customary shifting of light belts on the pulleys of machine tools for the purpose of alterations in the working speed.

12. (1) The supply of air for air compressors shall be drawn from the purest and coolest source possible. Air compressor..

(2) Receivers, inter-coolers and their connexions to air cylinders shall be kept clear and free from carbonised oil or other material liable to ignition and shall be opened for inspection at least once every quarter in which they may be in use and a written record made of their condition. (*Amended by 18 of 1947.*)

13. (1) All cylinders and receivers for air and gas of a higher pressure than the atmosphere shall be fitted with satisfactory apparatus for showing the pressure of air or gas within such cylinder or receiver while in use and also with relief or safety valve or other apparatus capable of preventing any undue accumulation of pressure above the safe working limit of the container. Safety valves .

(2) The manager shall test receivers at intervals not exceeding three years by hydraulic pressure to the extent of one and one-third times the working pressure and a written record of such test signed by the person conducting the same shall be made in the machinery book, which shall be kept normally for inspection.

14. (1) Dangerous places such as elevated platforms, pits and trap-holes, shall be fenced off so as to safeguard effectively those persons authorised to be in the vicinity. Dangerous places to be fenced.

(2) Unauthorised entrances into any place where machinery or steam boilers are erected is prohibited and notice to this effect shall be posted up at all entrances.

PART III

ELECTRICITY

15. (1) In a mine, the Chief Inspector or any inspector may examine any electrical installation at any reasonable time. Inspection of electrical installations.

(2) If any matter appears to be defective the Chief Inspector shall report thereon to the Electrical Engineer-in-Chief save that no report need be made on the use of electricity for shot-firing when blasting.

Minerals

PART IV

EXPLOSIVES

Application
of this Part.
6 of 1946.

16. The provisions of this Part are in addition to and not in derogation of the provisions of the Explosives Regulations, save that where the provisions of the regulations in respect of explosives used in connexion with prospecting or mining operations are in conflict with the provisions of the Explosives Regulations, the provisions of these regulations shall prevail.

Explosives
for
contractor.

17. Notwithstanding anything in any other regulations to the contrary nothing shall prevent the owner of a mine or his agent from selling or any contractor working in the mine from buying from him explosives solely for use in connexion with any contract in or about such mine so long as such explosives are not sold for profit and remain under the control of the mine management.

Explosives
not to be
stored in
closed-down
mine or
works.

18. (1) When a mine is closed down notice shall be given to the inspector in charge of the inspectorate of any explosives remaining thereon or therein and such explosives shall be removed or disposed of in such manner as the inspector may approve in writing.

(2) No other explosives may be stored at or in any such closed-down mine or other works without the permission in writing of the inspector.

Explosives
stored under-
ground.

19. No explosives in excess of the estimated requirements for twenty-four hours shall be stored underground in a mine and such explosives shall be stored in underground storage boxes and in no case shall detonators and capped fuses be stored in the same box with other explosives and the following conditions shall apply to all underground storage :—

Under-
ground
storage
boxes.

- (a) storage boxes shall be kept at a safe distance from working faces in dry and secluded places and at least six feet away from each other ;
- (b) the boxes shall be stoutly built of wood sufficiently water-proof, kept in good repair and provided with adequate means for locking them and shall be kept locked and the miner in charge shall keep the keys and only unlock them when he places explosives therein or removes the same therefrom ;

Minerals

(c) on the cover of the box the word "Explosives" shall be painted and maintained in distinctly legible letters ;

(d) no box shall contain more than 100 lbs. of explosives or one hundred detonators or capped fuses ;

Permitted quantities.

(e) no other materials, implements or tools shall be placed in a box in which there are explosives.

20. Shot-firers shall not use at their working places any explosives other than those supplied to them by their employers.

Only explosives supplied by employer to be used.

21. All explosives issuing from a magazine shall be placed, kept and carried in wooden boxes until required for use.

Explosives to be kept in wooden boxes.

22. (1) At a mine proper notice shall be given to the winding engine driver by the banksman or the onsetter, as the case may be, immediately before explosives are conveyed in a shaft by means of machinery.

Notice to winding engine driver.

(2) No tools, rock or other materials shall be conveyed in a shaft in the same conveyance as explosives and no person other than the person in charge of such explosives and one assistant if necessary shall accompany explosives in any such conveyance.

23. The winding engine driver shall gently lower or raise the cage or other conveyance containing explosives and the explosives may only be placed in or taken out of the shaft conveyance under the supervision of the person in charge of such explosives.

Conveyance of explosives in shaft.

24. (1) Save when explosives are contained in unopened cases, persons carrying explosives shall not carry any light other than an electrical hand lamp or a safety lamp of a type approved by the Chief Inspector.

Carrying explosives.

(2) When such carriage is underground a person carrying such a light shall precede the explosives and shall give proper warning of the approach of explosives.

25. (1) Save as provided in regulation 27 no person unless he is the holder of a mining blasting certificate issued under these regulations shall prepare or fire any charges, charge any hole with explosives or conduct any blasting operations in a mine.

Mining blasting certificates.

(2) Officers authorised to issue mining blasting certificates shall be prescribed by notice in the Gazette and such notice may limit the power of any prescribed officer to the issue of mining blasting certificates within a specified category or categories and renewal

Prescribed officer.

Minerals

thereof or renewal only and may limit the class of persons to whom a prescribed officer may issue mining blasting certificates.

Fees.
First
Schedule.
Form I.

(3) Application for a mining blasting certificate shall be in duplicate in the Form I in the First Schedule hereto and shall be made to a prescribed officer and the fee for a mining blasting certificate shall be five shillings.

Issue.

(4) Mining blasting certificates may be issued free of charge to persons who are in the employment of Government :

Provided that such certificates shall be endorsed "For use on Government service only" and shall be valid only whilst the holder is in Government service.

Types of
certificates.
First
Schedule.
Form II.

(5) (a) Mining blasting certificates in the Form II in the First Schedule hereto may be issued by a prescribed officer to such persons as shall prove to his satisfaction that they are competent to take charge of blasting operations in a mine.

of 1946.

(b) The prescribed officer may require the applicant to be in possession of a copy of the Explosives Regulations and of the Safe Mining Regulations before he issues a certificate.

(c) Such certificate may authorise the holder to conduct blasting operations in connexion with any prospecting or mining operations in accordance with such of the following categories as may be endorsed on the certificate by the prescribed officer :—

(i) on surface or in opencast workings only ;

(ii) in addition to (i), in underground operations, or in a mine except a fiery mine ;

(iii) in addition to (i) and (ii), in a fiery mine :

Provided that no holder of a mining blasting certificate shall use electricity for shot-firing when blasting unless his certificate has been endorsed by the prescribed officer to permit the same. The prescribed officer shall forward to the Chief Inspector a duplicate of each mining blasting certificate issued by him.

Renewal
of a mining
blasting
certificate.

(6) (a) Every mining blasting certificate shall be valid for a period of five years from the date of issue but may be renewed without charge for successive periods of five years each by a prescribed officer.

Minerals

- (b) An applicant for renewal shall if so required by the prescribed officer submit himself for re-examination as to his capabilities to conduct blasting operations and if the prescribed officer is satisfied as to the applicant's capabilities to conduct such operations he may renew such certificate for a further period of five years by endorsement upon it and such endorsement shall bear the date and place of renewal and the signature of the prescribed officer.
- (c) When a certificate is worn or defaced, the prescribed officer may issue a fresh certificate marked "renewal" with reference thereon to the worn certificate and shall impound and destroy the worn or defaced certificate.
- (7) (a) The holder of a mining blasting certificate in category (i) of sub-regulation (5) (c) may at any time make application for his certificate to be varied for use in category (ii), and the holder of a mining blasting certificate in category (ii) may make a like application for his certificate to be varied for use in category (iii) and such application shall be made to a prescribed officer.
- (b) If the prescribed officer is satisfied that the applicant is competent to conduct such additional blasting operations he shall endorse the certificate accordingly and sign and date such endorsement and notify the Chief Inspector that such endorsement has been made.
- (8) No person other than a prescribed officer shall make any endorsement on, alteration of or erasure from any mining blasting certificate issued under these regulations, except as provided in sub-regulation (7) hereunder, and any certificate containing any unauthorised endorsement, alteration or erasure shall be invalid.
- (9) Every person to whom a mining blasting certificate is issued shall, immediately upon receipt, endorse thereon his usual signature in the space provided or, if illiterate, record his thumb-print; failure so to do shall be an offence against these regulations.
- (10) Any person obtaining or attempting to obtain the issue of a mining blasting certificate by means of any false or fraudulent representation or statement or wilfully or recklessly giving false information as to any of the matters in respect of which information is or may be required in connexion with his application for a mining blasting certificate, shall be guilty of an offence against these regulations.

Variation of a mining blasting certificate.

Unauthorised endorsements on mining blasting certificate.

Holder's signature or thumb print required on mining blasting certificate.

Obtaining mining blasting certificate by false representation.

Minerals

Replacement
of lost
certificate.

(11) A holder of a mining blasting certificate whose certificate has been lost may apply to a prescribed officer for the issue of a new certificate and the prescribed officer, if satisfied as to the identity of the applicant and the loss of the certificate may issue a new certificate in replacement thereof and the applicant shall pay a fee of five shillings for such replacement which shall bear the endorsement "Duplicate".

Suspension
and cancella-
tion of a
mining
blasting
certificate.

(12) A mining blasting certificate issued under these regulations may be suspended or revoked by the order of an inspector for good and sufficient reasons :

Provided that any such order shall, at the request of the person aggrieved, be referred to the Chief Inspector whose decision shall be final.

Certificate to
be retained
by manager.

26. Every manager upon engaging an employee shall examine his mining blasting certificate, should he possess one, and shall satisfy himself that the holder is the person whose signature or mark is recorded thereon in accordance with these regulations and the manager shall retain the mining blasting certificate until the determination of the holder's engagement.

Preparation
and firing of
charges.

27. (1) The preparation and firing of charges shall be by a shot-firer.

(2) In the preparation of charges and the firing of such charges a shot-firer may be assisted by reliable persons, who are not shot-firers, when acting under his direct supervision but he shall be personally responsible for any accident occurring through such persons' ignorance, inexperience, or carelessness and in no case shall any person except a shot-firer actually prepare a primer cartridge or charge any hole.

Simultaneous
firing.

(3) There shall be no simultaneous firing with electric detonators except in the case of shaft sinking, opencast workings, workings in non-fiery metalliferous mines and stone drifts in coal mines.

Loose ground
to be removed
before starting
to drill.

28. (1) Before beginning to drill the gang headman shall satisfy himself that all overhanging and loose or loosened debris has been removed from the face and immediate vicinity of the working place.

Working
faces to be
thoroughly
scrapped.

(2) The gang headman shall also see that working faces to be drilled are washed down with water or when no water is available thoroughly scraped and examined for sockets or butts of holes and for any charges which may have misfired :

Minerals

Provided that the provisions of this sub-regulation shall not apply to coal mines.

29. (1) Before commencing work either at the beginning of a shift or after blasting, the gang headman in charge of the shift shall be the first to enter the working place and, until he considers it safe, he shall not allow any person to proceed thereto except those required by him to make the place safe.

Gang headman must be the first to enter working place.

(2) In shaft sinking the headman in charge accompanied, if necessary, by not more than two other persons shall carefully examine the shaft from top to bottom after blasting and shall remove all loose debris which may have settled on the shaft timbers or fittings.

30. When the distance between approaching workings in either of which blasting is being done is reduced to thirty feet, the workmen shall be withdrawn from both faces whilst blasting operations are taking place at either face.

When connections are thirty feet apart.

31. No person shall return to any working place until such place is free from the dust, smoke and fumes caused by blasting and every gang headman in charge of workmen shall be responsible for ensuring that the workmen in his charge comply with this rule and shall report to the competent person without delay any case of gassing however slight.

Resumption of work after blasting.

32. (1) Mining blasting certificates issued under the law for the time being in force at the date of coming into force of these regulations shall remain valid, unless otherwise cancelled, for a period of one year from that date.

Validity of existing certificates.

(2) Any such certificates may be exchanged free of cost for a mining blasting certificate issued under these regulations if surrendered to a prescribed officer within the aforesaid period of one year.

33. No person shall carry or cause or permit to be carried any calcium carbide underground except in lamps provided or approved by the manager or in a watertight receptacle of a type approved by an inspector and provided by the manager and no person shall store or leave calcium carbide underground on coming off the shift.

Carbide.

PART V

MINING : OPENCAST AND ALLUVIAL

34. An inspector may determine from time to time the angle to be maintained on any mine workings to ensure the safety thereof,

Angle of slope.

Minerals

and in such case shall give notice in writing to the lessee or his agent of the angle to be maintained.

35. In the case of any excavation which exceeds six feet in vertical height and four feet in diameter and is made by hand labour and not wholly by hydraulic or mechanical means—

Safety man
to be
stationed.

(a) there shall be a safety man for every gang exceeding twenty men and this safety man shall be stationed on the top of the bank and be provided with a bar weighing not less than fifteen pounds and he shall watch for surface cracks and bar down all loose and overhanging ground;

Spoil not to
be deposited
near edge.

(b) no spoil shall be deposited within three feet of the edge of the top of the vertical or sloped face.

Mine face to
be stepped in
benches
when
ordered.

36. When an inspector shall consider that the face of a mine should be stepped in benches in order to ensure the safety thereof he shall by notice in writing addressed to the lessee or his agent require such stepped benches to be cut as he may specify.

PART VI

MINING: PROTECTION OF SURFACE

Protection of
surface where
subsidence or
cavities.

37. Where mining operations have caused subsidence or cavities on the surface, or where such are likely to occur, such places shall be securely fenced in and conspicuous notice boards inscribed "WARNING" shall be erected and maintained as long as there is danger.

Pillars to be
left for
protection.

38. (1) For the protection of ground and any surface objects which it is necessary to protect in the interests of personal safety or public traffic, and the removal of which may be inexpedient, the reefs, coal beds or other mineral deposits shall be left intact not only vertically below the same, but also for such a distance beyond as the inspector in charge of the inspectorate may consider necessary, and an appeal shall lie from the direction of such inspector to the Chief Inspector.

Permission
for excava-
tion of
ground be-
neath surface
objects.

(2) Permission for the entire or partial excavation of the ground beneath such surface objects may be obtained from the Chief Inspector to the extent and under such precautions and conditions as he may prescribe in each separate case.

Permission
for tunnel-
ing through
pillars.

(3) The driving of tunnels not exceeding six feet in width through such safety pillars for the purpose of connecting two

Minerals

separate mines or parts of a mine may be allowed with the written permission of an inspector, upon precautions prescribed by him being observed.

39. All excavations made contrary to the provisions of the preceding regulations shall be immediately filled up with loose rock debris or earth by the person or persons responsible for such excavations, failing which they shall be filled up by Government at the expense of the owner of the mine.

Excavations
contrary to
regulations
to be filled in.

40. (1) In digging prospecting trenches the ground shall be thrown out so as to form approximately equal ridges on each side and in sinking prospecting pits the ground shall be thrown out so as to surround the pit and where necessary every sufficient means shall also be taken, either by filling up or fencing same, to prevent persons inadvertently falling into or entering such trenches or pits :

Prospecting
trenches
and pits.

Provided that nothing in this regulation shall prevent the removal of excavated ground for sampling purposes.

(2) If in the opinion of an inspector disused prospecting or mining excavations are dangerous to life, or endanger public traffic, he may order them to be filled in to the level of the surface or securely fenced in by the prospector, holder or lessee.

Filling in or
fencing
dangerous
prospecting
works.

(3) If any person neglects to comply with the provisions laid down in the two preceding sub-regulations he shall be guilty of an offence against these regulations and Government shall in any case have the right to fill up or otherwise protect such trenches or other excavations at the expense of such person.

Procedure
in case of
neglect to
comply.

41. The mouth of every shaft or entrance to a mine which for the time being is out of use or used only as an air way, and the approach of every open working not being ordinary prospecting pits or trenches, and all elevated and exposed platforms and gangways shall be kept securely fenced or otherwise protected.

Protection of
shafts not in
use and mine
entrances,
etc.

42. Any holder of an exclusive prospecting licence, mining right or mining lease over ground on which there are old prospecting or mining excavations either open to the surface or underground, shall be responsible for preventing access thereto or for rendering safe such excavations as are left accessible.

Responsi-
bility for old
excavations.

Minerals

PART VII

MINING : UNDERGROUND

Application to loto mining. 43. With the exception of regulations 44, 47, 48, 54, 90 (1), 91 (1), 92 and 100, Part VII of these regulations shall not apply to loto mining. (*Inserted by 18 of 1947.*)

A.—Fire

Thatch or wood not to be used. 44. (1) No inflammable roofing material such as thatch or wood shall be used as roof covering on shelters erected over mouths of shafts or other deep workings.

Inflammable material not to accumulate. (2) No inflammable debris or refuse shall be stored, dumped or allowed to accumulate underground in any mine.

Care with naked lights. (3) No naked lights shall be so placed that there is any risk of their igniting any wood, timber or other material underground in a mine.

B.—Shafts

Ladders and ways of exit. 45. (1) The lessee or holder or his agent shall provide and maintain to the satisfaction of the inspector such ladders or other ways as will furnish effectual means of exit from any underground workings or of ascent of persons without the assistance of winding machinery.

(2) Where in any working served by only one shaft it appears to an inspector that a second outlet has become necessary either for the safety of the workmen employed or for proper ventilation, the lessee or holder or his agent shall on being required to do so provide such second outlet.

Where a single shaft is allowed a proper ladder way shall be provided. 46. At every mine where any single shaft is allowed to form the only means of ingress and egress to the persons employed underground, such shaft shall be provided with a proper ladder way and an inspector may order the provision of a proper ladder way in more than one shaft in any mine.

Distance between shafts. 47. No shaft shall be sunk within thirty feet of any other shaft without written permission of an inspector.

Underground entrances to abandoned workings to be fenced. 48. All underground entrances to shafts or other dangerous places which are temporarily or permanently abandoned shall be securely fenced across the whole width of such entrances so that no person can unintentionally enter the same.

Minerals

49. In vertical or steeply inclined shafts where one compartment is used as a foot travelling way it shall be securely bratticed off from the other compartments and in all other shafts the foot travelling way or ways shall be adequately railed off so as to prevent any person inadvertently entering the winding compartment.

Travelling ways to be bratticed.

50. Where ladders are used the following provisions shall apply :—

Ladders.

- (a) no ladder shall incline outwards from its base from the face ;
- (b) ladders shall not be vertical without the written consent of an inspector ;
- (c) in ladder ways exceeding sixty feet in depth and having an inclination of more than seventy degrees from the horizontal, platforms shall be provided at intervals of not more than thirty feet measured vertically ;
- (d) no two consecutive manholes in such platforms shall be in a vertical line unless the ladders have sufficient inclination to cover the manholes ;
- (e) all ladders used in mines shall be strongly constructed and be securely fastened to the timbering or sides of the shaft and maintained in proper repair. Rungs must not be more than nine inches apart and must be inserted or notched into the sides of the ladder as well as fastened by clinched nails or other adequate means ;
- (f) the ladders shall project at least three feet above the mouth of the shaft and every resting place therein, or strong hand-rails shall be fixed at such places.

51. (1) In all mines where the raising or lowering of persons by means of machinery is prohibited, only such travelling way or ways shall be used in ascending and descending as are specially set apart for the purpose.

Special travelling way.

(2) The use of other shafts or shaft-compartments as a means of ingress or egress is permitted only to those persons who are charged with the making of inspections or repairs.

Persons doing repairs, etc. may use other ways.

52. No person shall carry or be permitted to carry any drill, tool or any loose material on a ladder way in a vertical or steeply inclined shaft or winze, except so far as may be necessary in executing repairs or other work.

Carrying tools or loose materials in ladder way prohibited.

Fencing off entrances to shafts, winzes, etc.

53. The top of every vertical or steeply inclined shaft, winze, sump and shoot or sliding hole and all entrances thereto below the top, shall be kept properly fenced off by means of a barrier or gate but this shall not be taken to forbid the temporary removal of the barrier or gate for the purpose of repairs or other operations if proper precautions to prevent danger to persons are taken.

Loose material etc., near unprotected edges prohibited.

54. No excavated material, tools, wood or loose articles of any kind shall be allowed to lie near the unprotected edge of any excavation.

Guides for bucket, cage or skip.

55. Vertical shafts exceeding one hundred feet in depth shall be provided with guides for any bucket, cage or skip.

Provision for workmen passing from one compartment to another.

56. At every shaft station where it is necessary for workmen to pass from one side of the shaft to another provision shall be made for them to do so without entering or crossing a winding compartment and such passage shall be securely fenced.

Entering the winding compartment prohibited.

57. Entering or crossing a winding compartment of a shaft is prohibited, except to ascend or descend and for purposes of repairs :

Provided that this regulation shall not apply to persons employed in timbering or lining vertical shafts whilst sinking operations are being carried on.

Shaft pillars. Second Schedule.

58. In shafts to work stratified deposits there shall be left pillars as set out in the Second Schedule.

Sinking shafts.

59. (1) In sinking shafts the bucket, cage or skip shall not be filled above the level of the brim.

(2) Before the bucket, cage or skip leaves the top or bottom of the shaft it shall be steadied under the supervision of the gang headman in charge.

(3) In no case shall any bucket, cage or skip be directly lowered to the bottom of a shaft when men are working there, but must be stopped at least fifteen feet above the bottom until the signal to lower it further has been given by one of the sinkers thereat :

Provided that this sub-regulation shall not apply to shafts in which the sinkers are not more than fifty feet from the banksman.

Ladders in sinking shafts.

60. Ladder ways shall be provided in all shafts in the course of sinking to within such distance of the bottom as will secure them from damage in blasting, and from the ends of such ladder ways chain ladders shall be extended to the bottom of the shaft :

Minerals

Provided that chains may be substituted for chain ladders in an inclined shaft.

61. (1) When a shaft has no separate ladder way under which those engaged in sinking may find shelter, during the winding of rock materials or water, sufficient protection shall be provided by a suitable covering.

Protection of persons in shafts.

(2) When a working shaft is being sunk deeper while ordinary winding is going on the men employed at the bottom of such shaft shall be securely protected by a cover overhead.

C.—Winding

62. All hoisting appliances in use at shafts and winzes shall be provided with a stopper, pawl or some other reliable holder, and care must be taken that the hooking on and off of buckets, kibbles or other receptacles is done without danger to the workmen.

Windlasses, kibbles, etc. : precautions in using.

63. In vertical shafts where cages are used to transport mine trucks the landing place of each winding compartment shall be provided with self-closing keps and a self-closing cover, gate or gates.

Shaft covers to be self-closing where cages are used.

64. When tools, wood or other materials are to be let down or hoisted up any shaft, their ends, if projecting above the top of the bucket, cage or skip shall be securely fastened to the winding rope or to the bow of the receptacle.

Securing of projecting materials during winding.

65. Where winding is effected by means of an engine, the winding engine driver shall be provided with a seat from which he can operate all controls.

Seat for winding engine driver.

66. No person other than the driver of the winding engine or an inspector shall at any time enter or remain in a winding engine house or shed while winding is in progress unless authorised to do so in writing by the manager for the purpose of carrying out repairs, adjustment or inspection and no person shall speak to or in any way distract the attention of the person operating a winding engine while it is in motion.

Entering engine house or distracting the attention of the engine driver prohibited.

67. (1) Where winding is effected by means of an engine, an adequate brake shall be attached to every drum and kept in proper working order and such brake must be so arranged that, be the engine at work or at rest, it can be easily and safely manipulated by the winding engine driver when sitting at the levers controlling the engine.

Winding engine: adequate brake required and arrangement of brake.

Minerals

- Spare parts. (2) Brake blocks and other spare parts for winders shall at all times be kept in stock at a mine.
- Testing of brakes by inspector. (3) An inspector shall at all times have the power to order or conduct a test of the efficiency of all brakes.
- Secure connexion between ropes and bucket, cage or skip. 68. The connexion between rope and bucket, cage or skip must be of such a nature that no accidental disconnexion can take place.
- Quality and condition of winding ropes. 69. Ropes used for winding purposes must be in good condition and of good quality and every rope used for winding purposes in shafts or winzes over seventy feet in depth, measured on the incline or vertical, as the case may be, shall be made of steel wire of good manufacture and the wires used in the construction of the ropes shall be of a size suitable for use with the sheaves and drums fitted.
- Winding during repairs. 70. (1) While repairs are being carried on in the winding compartment of a shaft, winding shall not be permitted in that shaft save as may be reasonably necessary for the purpose of such repairs.
- (2) Repairs to a winding compartment in a shaft need not necessarily prohibit persons working below the lowest point at which the repairs are being effected when such persons if working in the shaft concerned are securely protected by a suitable covering.
- "repairs" (3) For the purposes of this regulation "repairs" includes the oiling of sheaves, rollers and pulleys.
- In shafts signalling apparatus shall be provided. 71. (1) Every winding shaft if exceeding fifty feet in depth shall be provided with some efficient means of interchanging distinct and definite signals between the winding engine, the top of the shaft, and the lowest point from which winding is carried on, and the various intermediate stations for the time being in use, but this regulation shall not apply to signalling apparatus used during sinking operations.
- (2) An inspector may in writing exempt any shaft from the whole or part of the requirements of sub-regulation (1) of this regulation and any exemption may be varied or revoked by the inspector at six months' notice and an appeal shall lie from any such variation or revocation to the Chief Inspector.
- (3) Where more than one winding engine is in use at a shaft, a separate set of signals, as required in sub-regulation (1) must be provided for each winding engine in use.

Minerals

72. No winding engine driver shall start his engine before he has received a distinct signal to do so, unless in special circumstances instructed to do so by the manager or a person authorised in writing by the manager, who shall inform the inspector in charge of the inspectorate.

Distinct signal to be received before starting winding engine.

73. (1) The following signals shall be used at all times in connexion with winding in shafts :—

Signals for winding.

	Knocks or Rings
<i>General to all winding.</i>	
(a) Raise when engine is at rest	1
Stop when engine is in motion	1
Lower	2
Raise slowly and steadily	2 pause 1
Lower slowly and steadily	2 pause 2
(b) Changing levels (to be followed by the indication of the level as authorised by the manager)	4
(c) Blasting about to take place in shaft	5
Reply from winding engine driver : fuses may be lit and men may enter conveyance	5
Fuses are alight and men have entered conveyance : hoist without delay	1
(d) Accident	5 pause 5

Unbalanced winding.

Winding persons with a conveyance not balanced by any other conveyance—

Signal when men are about to ascend or descend	3
Reply by winding engine driver : men may enter conveyance	3
(the signal to raise or lower is then given by banksman or onsetter.)	
From winding engine driver when conveyance is brought to rest : men may leave conveyance	3

Balanced winding.

Winding persons with a conveyance balanced with another conveyance which must move in the opposite direction—

(a) When a person is about to descend : The banksman shall signal to the onsetter and the winding engine driver	3
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Minerals

	Knocks or Rings
Before the person enters the cage the onsetter shall signal to the banksman and the winding engine driver (person then enters cage.)	3
When the cage at the bottom is clear and ready to ascend, the onsetter shall signal to the banksman and the winding engine driver . .	1
When the person is in the cage and ready to descend, the banksman shall signal to the winding engine driver	2
(b) When a person is about to ascend :	
The onsetter shall signal to the banksman and the winding engine driver	3
Before the person enters the cage the banksman shall signal to the onsetter and the winding engine driver (person then enters cage.)	3
When the person is in the cage and ready to ascend, the onsetter shall signal to the banksman and the winding engine driver . .	1
When the banksman has received the signal "1" from the onsetter, the banksman shall signal to the winding engine driver	2
Pause with mechanical signalling.	(2) Where the means of signalling is mechanical the pause shall be indicated by the signalling hammer being held up for three seconds before descending to strike the bell.
Pause before acting on signals.	(3) (a) No signal shall be acted upon until six seconds have elapsed after the last knock. (b) If for any reason the winding engine driver is unable to act on any signal before the lapse of two minutes he shall not act on that signal until it has been repeated.
Signals not understood to be repeated.	(4) If any signal is not understood the recipient must ask for it to be repeated by such means as are suitable to the apparatus installed.
Signals : legible notice boards required.	74. The code of signals in regulation 73 shall be painted on a board or enamelled plate, in letters not less than one and a half inches high, in the form of a distinctly legible notice in English, and shall be posted up in the engine room and at the top of the shaft and at all shaft stations for the time being in use :

Minerals

Provided that in the cases of balanced or unbalanced winding conveyances the inappropriate signals may be omitted.

75. In shaft sinking special care must be taken that the winding engine driver is notified by a prearranged signal when blasting is about to take place, so that he may be ready instantly to raise persons employed in blasting on receipt of the final signal.

Signal during blasting.

76. (1) No winding engine or apparatus shall be used for the raising or lowering of persons unless the special written permission of the inspector in charge of the inspectorate has been granted to use the winding engine or apparatus and such written permission may impose special conditions for the safe use of the winding engine or apparatus.

Permission required for use of winding engine for raising, etc. of persons.

(2) Permission will not normally be given for persons to ride in buckets except in sinking shafts.

Riding in buckets: special conditions before permission granted.

(3) Permission shall not in any case be granted unless the provisions of this Part have been complied with so far as they are applicable and unless the following further special conditions are observed, and it is proved by actual test to the satisfaction of an inspector—

- (a) that the winding engine running at various speeds with light and heavy loads can be readily slowed and stopped and after stopping can be immediately started again in either direction by the winding engine driver ;
- (b) that the winding engine can lift from the bottom to the top of the shaft the maximum unbalanced load on one drum ;
- (c) that each winding drum, unclutched from the engine, can be maintained in a position of rest with no more slipping than one foot, by the unaided effort of its own brake or brakes when bearing its maximum statical load and when this load is increased to the extent of doubling the authorised load of the cage or skip. In estimating the authorised load one hundred and fifty pounds weight shall be allotted for each person ;
- (d) that in the case of a hoist where no part of the rope is rigidly fixed to the drum, there shall be no dangerous slipping of rope on the drum under any possible working condition.

Minerals

Height to headgear and clearance necessary.

(4) The headgear shall be carried, without obstruction to the cage or skip way, to such a height as to allow a clearance of at least twenty-five feet in which the cage or skip can travel freely in case of an overwind.

Quality and manufacture of winding ropes.

(5) (a) Winding ropes shall be made of steel of the best quality and manufacture free from any defect and the wires used in the construction of the ropes shall be of sizes suitable for use with the sheaves and drums fitted.

(b) Winding ropes shall not be used for raising or lowering persons when, owing to deterioration, the breaking strain has become reduced to below four times the maximum working load which shall include the weight of rope in the shaft at the lowest working point.

Samples of winding ropes to be supplied.

(6) At the request of an inspector an adequate sample from the end of any winding rope shall be supplied to him together with such data as may be required regarding manufacture, dimensions and class of steel, date of purchase and date of being put into use.

Winding ropes and connexions to be tested.

(7) Winding ropes newly put on, as also connecting attachments between the rope and the bucket, cage or skip, shall be carefully examined and properly tested as to their working strength by some competent and reliable person authorised thereto by the manager, and shall be used for the ordinary transport of persons in shafts only after having run two complete trips up and down the working portion of the shaft, the cage or skip being loaded to the full authorised extent and the result of the above examination shall be immediately recorded in the machinery book.

Safety catches required.

(8) (a) Cages or skips used for hoisting persons in vertical or steeply inclined shafts shall have proper safety catches where applicable.

Doors required for cages.

(b) Cage entrances shall be fitted with doors or gates so as to prevent any portion of the body of any person riding therein from accidentally coming into contact with the timbering or sides of the shaft and the doors or gates must be constructed in such a manner that they cannot open of themselves.

Flanges on drums to prevent rope slipping.

(9) There shall be on the drum of the winding engine such flanges or horns and also, if the drum is conical or spiral, other appliances as may be sufficient to prevent the rope from slipping.

Minerals

(10) There shall be not less than three rounds of rope upon the drum when the cage or other conveyance is at the lowest point of the shaft from which hoisting is going on and the end of the rope shall be properly fastened either round an arm of the drum or round the shaft.

Minimum amount of rope on drum.

Attachment of rope to drums.

(11) Every engine used in raising or lowering persons shall be provided with a reliable depth indicator, in addition to any marks on the rope, which will clearly and accurately show to the winding engine driver at his driving seat at all times the position of the cage or other conveyance in the shaft and which will, moreover, in shafts exceeding three hundred feet in depth ring a bell in the engine room when the conveyance is sixty feet from the top landing place.

Reliable depth indicator necessary.

(12) Where difference of gradient in a shaft necessitates reduction of winding speed such position shall be plainly marked on the depth indicator.

Changes of gradient to be shown on indicator.

(13) A reliable speed indicator shall be attached to the winding engine if considered necessary by an inspector.

Speed indicator may be required.

(14) (a) When possible some suitable automatic device to prevent over-winding of cages or skips shall be provided.

Automatic device to prevent over-winding.

(b) If the winding apparatus cannot be provided with some automatic contrivance to prevent over-winding, then the cage or skip, when men are being raised, shall not be wound up at a speed exceeding two hundred and fifty feet per minute after the cage or skip has reached a point in the shaft to be fixed by an inspector.

Maximum speed where automatic contrivance is not applicable.

77. Prospecting shafts where winding is done by manual or animal power may be exempted from the provisions of regulations 55, 60, 61, 71 and 76 by an inspector.

Exemption in prospecting shafts.

78. (1) Where winding in shafts in accordance with regulation 76 is permitted, at least one competent person, specially deputed by the manager for the purpose, whose name or names must be entered by him in the machinery book, shall carefully examine—

Regulations where winding is permitted.

(a) at least once a week the guides and the winding compartment generally, the signalling apparatus and the external parts of the winding engine, the aerial gear, the winding ropes and their attachment to the shaft conveyances and to the drums of the hoist, the brakes, the depth indicators, the cages or skips and their safety catches, the sheaves and every essential external part of the winding arrangements;

Minerals

- (b) at least once a month the structure of the rope, for the purpose of ascertaining the amount of the deterioration of the same; for the purpose of this examination the rope must be carefully cleaned and measured at selected places;
- (c) at least once a year the winding engine as to the working condition of the internal parts.

Any defects to be made good before persons are allowed to be lowered or raised.

(2) When as a result of such examination any weakness or defect is discovered which is or might be dangerous, such weakness or defect shall be immediately reported to the manager and remedied, and no person shall be lowered or raised until the weakness or defect is made good.

Machinery book to be entered and signed by person making inspection.

(3) The result of every examination shall be recorded without delay in the machinery book and shall be signed by the person who made the examination.

Spare rope to be kept where persons are hoisted.

79. At least one spare rope as described in regulation 76 (5) shall always be kept in reserve ready for use.

No riding on partly loaded bucket, cage or skip.

80. (1) No person shall be allowed to ascend or descend a shaft or winze on the side or bow of a bucket, cage or skip or in or on a loaded or partly loaded bucket, cage or skip:

Provided that the manager may authorise the carrying of tools or other materials in small quantities with men in a shaft conveyance and that a workman engaged in sinking or repairing the shaft may travel with materials.

Persons travelling prohibited from changing position.

(2) No person travelling in a bucket, cage or skip shall change his position therein whilst being raised or lowered.

Trial trip after repairs or stoppage exceeding two hours.

(3) After any stoppage of winding for two hours, or for repairs, each bucket, cage or skip shall, before any person is allowed to ride therein, be run at least one complete trip up and down the working portion of the shaft or winze with a view to ensuring that everything is in good working order.

Special duties of banksmen and onsetters.

81. At the bank, at the bottom and at every station in a shaft where persons are regularly allowed to ride the banksmen and onsetters shall be responsible for the observance of sub-regulations (1) and (3) of regulation 80, for the giving of correct signals, for seeing that the number of persons carried at any one time does not exceed that authorised by the inspector and for the proper closing of the doors or bars of the cages or skips.

Minerals

82. When winding persons, the winding engine driver shall in no case be allowed to run the engine at a greater speed than that fixed upon, when the permission to use the engine for the purpose was granted under regulation 76, and he shall take care that shocks in starting and bringing the engine to rest are avoided and that buckets, cages or skips are set down gently at stopping places.

Speed of winding persons and precautions against shocks.

83. No truck, iron, timber, tools or other materials shall, except when the shaft is being repaired, be placed in any cage or appliance in which men are being lowered or raised.

Material not to be carried in cage lowering persons except when repairing shafts.

84. When raising or lowering persons—

(a) hoist drivers shall not be permitted to work more than one eight-hour shift in any consecutive twenty-four hours :

Hoist drivers when raising or lowering persons.

Provided that once only in each week a hoist driver may be required to work for two eight-hour shifts within one period of twenty-four hours in order that he may change to another shift for the ensuing week ;

(b) before any person is employed as driver of a winding engine exceeding thirty horse power he shall undergo a medical examination and receive a certificate of fitness from a medical practitioner and an inspector may require such winding engine drivers to be re-examined at the expense of their employer at intervals of not less than one year.

Medical examination.

85. (1) Every driver of a power driven hoist shall be licensed by an inspector and no unlicensed driver shall drive or be allowed to drive any power driven hoist, except that a learner-driver may drive such hoist when under the direct supervision of a licensed driver.

Licensing of hoist drivers.

(2) At all times when any learner-driver is operating a power driven hoist a notice board of a size not less than twelve inches by twelve inches bearing in red the letter "L" shall be clearly displayed on the outside of the hoist house in such a position that it is at all times clearly visible from the shaft collar.

Learner-drivers.

D.—Underground : General

86. All underground entrances to shafts or other dangerous places which are temporarily or permanently abandoned shall be securely fenced across the whole width of such entrances so that no person can unintentionally enter the same.

Underground entrances to be fenced.

Minerals

Protection underground against falling material.

87. (1) Where the underground workings referred to in regulation 86 or steeply inclined stopes lead directly into a travelling road, such road, as also any working place situated on its lower or "dip" side, shall be securely fenced off so that persons working therein shall be protected against danger of falling stones or materials.

Danger to be reported.

(2) Should any gang headman have reason to believe that any part of the hanging wall or any other part of a mine is in a dangerous condition he shall at once inform his superior who shall take the necessary steps to remove the danger. The said gang headman shall also inform any gang headman who may relieve him as well as the headman of the following gang.

Securing of unsafe workings.

88. (1) Where the ground is not naturally safe, every working or pumping shaft and every travelling road, airway or working place, adit, level, crosscut, stope and underground passage, shall be securely timbered, walled up, or otherwise made secure, and kept in safe condition so long as they are in actual use, and no persons, unless appointed for the purpose of exploring or repairing, shall travel or work in any such shaft or underground working until it is made secure.

Reserve timber to be kept.

(2) In addition to such securing as in sub-regulation (1) where the ground is not naturally safe in every working place a sufficient reserve of suitable timber shall be provided conveniently for the immediate use of the workmen employed therein.

Safety pillars between adjoining properties.

89. (1) On the inside of the boundary lines of every mine safety pillars must be left standing, the width of which in stratified deposits shall not be less than fifty feet and in non-stratified deposits not less than thirty feet, measured at right angles from the boundary lines.

Weakening or removal of safety pillars.

(2) On the joint application of the owners of adjoining mines, the inspector in charge of the inspectorate may give written permission to either party to weaken, cut through or work their respective pillars between such mines and in the absence of such joint application the Chief Inspector may give written permission for the partial working, weakening or cutting through of such pillars.

Advance boreholes when approaching water or gas.

90. (1) Where any working has approached within forty yards of any place containing or likely to contain water or other liquid matter or noxious gases, only one working place is permitted which

Minerals

shall not exceed six feet in width, and there shall be constantly extended ten feet in advance of such working place one borehole and six feet in advance not less than one borehole on either side of the ten feet borehole.

(2) Where such working place is in a coal mine or in a fiery metalliferous mine no explosives shall be used. Explosives not to be used in fiery mine.

91. (1) Underground workings, especially shafts, sumps and winzes, which have been in disuse for some time, shall be examined before being again used, in order to ascertain whether foul air or other dangerous gases have accumulated and only such workmen as may be necessary to make such examination shall be allowed to proceed to such places until such places are in a fit state to work or travel in. Disused workings to be examined before being again used.

(2) When such underground workings are situated in coal mines safety lamps shall be used in making such examination.

(3) When such underground workings are not in coal mines safety lamps shall be used if the mine is classed as a fiery mine or was classed as a fiery mine before being closed down, otherwise a naked flame may be used.

E.—Ventilation

92. All parts of every underground working shall be properly and sufficiently ventilated to the satisfaction of an inspector. Ventilation to be sufficient.

93. In every mine the quantity of air in circulation shall be measured, at least once per month, and entered in a book kept for the purpose at the mine. Air measurement to be taken.

94. All ventilation doors shall be self-closing. Ventilation doors.

F.—Laying of Dust

95. (1) Unless written exemption has been obtained from the Chief Inspector— Percussive drills.

(a) percussive drills shall have a central water feed ;

(b) every place in which percussive drills are used shall be effectively sprayed with water before persons are allowed to go into the working place, and while drilling is proceeding the surface of the working shall be sprayed with water from time to time.

(2) This regulation shall not apply to workings in which sand filling is used or to coal mines.

Sub-regulation (2) of regulation 44 of these regulations not apply to coal mines in so far as accumulation of coal dust concerned.

In any coal mine, unless the seam is naturally wet throughout the floor, roof and sides of every road which is accessible shall be treated in one of the following ways :—

- 1. they shall be treated with non-combustible dust in such manner as will ensure that the dust on the floor, roof and sides shall always consist throughout of a mixture containing not more than fifty *per centum* by weight of combustible matter ; or
- 2. they shall be treated with water in such a manner as will ensure that the dust on the roof, sides and floor is always combined throughout with thirty *per centum* by weight of water in intimate mixture.

G.—Lighting

- 1. Adequate stationary lights shall be provided during working at all stations in vertical and inclined shafts and at all working places in levels where winding or hauling is effected by means of machinery and at night at all working places on the surface.
- 2. All places where winding, driving, pumping or other machinery is erected in proximity of which persons are working or moving about and which are not fenced off in such a way that it is impossible for anyone to come inadvertently in contact with the machinery shall be so lighted whilst in operation that the moving parts of the same can be clearly distinguished.
- 3. No person is allowed to move about in any unilluminated part of a mine without a light.

H.—Haulage

- 1. (1) Every underground haulage road or tramway on which the haulage is worked by gravity or mechanical power shall be provided with sufficient manholes or places of refuge at intervals of not more than twenty yards, but where the gradient does not exceed one in twenty and there is provided between the trams and the side of the road or between the two lines of trams a clearance of at least two feet, the provision of such manholes shall not be necessary.

Minerals

- (2) Every manhole shall be—
- (a) as near as may be three feet in width and not less than four feet in depth ;
 - (b) not less than the height of the road at that point, or six feet, whichever is the lesser ;
 - (c) kept whitewashed so as to be readily visible ;
 - (d) kept clear and unobstructed and no person shall place in or near the same anything which may prevent free access thereto.

102. The space between the tracks of rail in every haulage road or tramway shall at all times be kept clear of obstructions. Space between rails to be kept clear.

103. No person below ground shall be allowed to ride on sets or trains of tubs or any other conveyance except— Riding on tubs.

- (a) men being conveyed with the written permission of the manager to or from their work at the commencement or end of their shift ;
- (b) the driver of an underground locomotive.

104. (1) Every rope used for haulage, which is capped, shall be recapped at intervals of not more than six months. Haulage appliances.

(2) Sufficient and suitable wedges, sprags, lockers or drags shall be provided and used for the purpose of holding a tub or set of tubs—

- (a) at the top of every incline where the haulage is worked by gravity, and
- (b) at all places where tubs are coupled or uncoupled.

105. On every road where mechanical haulage, other than endless rope haulage, is used and where the gradient exceeds one in twelve, runaway switches shall be provided. Runaway switches.

106. (1) On every haulage road where the haulage is worked by gravity or mechanical power there shall be provided, if the road exceeds thirty yards in length, some proper means of communicating distinct signals between all places on the haulage and the engine driver and the following signals shall be used :— Haulage signals.

(a) <i>Direct or Main Rope Haulage</i> :	Knocks or Rings
To stop	1
To lower	2
To wind in	3

Minerals

<i>(b) Self-Acting Haulages :</i>	Knocks or Rings
To stop.. .. .	1
To start	2
Men about to travel incline	4
Acknowledge by	4
 <i>(c) Main and Tail Rope Haulages :</i>	
To stop.. .. .	1
To haul in-bye	2
To haul out-bye	3
To slack out tail rope	4
To tighten tail rope	5
To slack out main rope	6
To tighten main rope	7
 <i>(d) Endless Rope Haulages :</i>	
To stop.. .. .	1
To start	2
When men are to be hauled out-bye or in-bye, any of the above signals to be preceded by a cautionary signal of	8

(2) The manager shall also prescribe "station" signals and shall have a list of all signals to be used on any particular haulage, posted up in the engine house and at all signalling stations.

PART VIII⁽¹⁾

DREDGING

Dinghy to be provided. 107. In the case of every working dredge a serviceable dinghy shall be kept either moored to the dredge or be manned and within call.

Mooring ropes. 108. Every care shall be taken to ensure that mooring ropes do not cause injury to any person.

PART IX

COAL MINES

Application of this Part. 109. The provisions of this Part shall apply only to coal mines in addition to and not in derogation of the other provisions of these regulations.

⁽¹⁾ The sub-headings "J" and "K" were deleted by 18 of 1947 and Parts "VII A and VII B" substituted. The Parts have been renumbered VIII to XIV.

Minerals

110. No person other than persons holding such office at the date of coming into force of these regulations shall hold any office in a coal mine superior to an underground foreman unless he is the holder of a Certificate of Competency (2nd Class) awarded by the approved Nigerian Coal Mining Examinations Board or other approved body.

Qualifications of officials.

111. In any mine in which inflammable gas, although not normally present, is likely to occur in quantities sufficient to be dangerous, all cables, apparatus, signalling wires and instruments shall be so constructed, installed, protected, maintained and worked so that there shall be no risk, in normal working, from sparking.

Appliances to be non-sparking.

112. (1) The fireman or examiner of a mine shall, within two hours immediately before the commencement of work in a shift, inspect every part of the mine situated beyond an appointed station in which workmen are to pass or work during that shift and shall ascertain the condition thereof.

Inspection of and reports on workings.

(2) A true and accurate verbal report of such examination shall be made by the examiner to the overman in charge of that section of the mine.

(3) For the purpose of this regulation, two or more shifts succeeding one another so that work is carried on without any interval are regarded as one shift.

(4) A similar inspection shall be made at least once per shift by the overman who shall make a written report as to the state of his section.

113. (1) No person shall draw or take down any prop except such specific ones as he has been instructed to take down by an official authorised to give such instruction by the manager under regulation 138.

Withdrawing timber.

(2) No props shall be withdrawn from the waste or gob or from under a roof which appears to an overman or examiner to be insecure, otherwise than by means of a safety apparatus.

114. At every mine where, in the underground workings there may be, at any time, any risk or danger of fire or explosion, there shall be provided and maintained in good order and ready for immediate use, apparatus and equipment as in paragraph (a) of this regulation—

Safety apparatus.

- (a) (i) four complete sets of self-contained breathing apparatus for the first one thousand underground workers and one complete set for each subsequent one thousand, or part of one thousand underground workers ;
 (ii) one smoke helmet or other apparatus serving the same purpose for every one thousand or part of one thousand underground workers ;
- (b) where more than one hundred but less than one thousand underground workers are employed in any mine, such mine, for the purpose of this regulation, shall be considered as employing one thousand persons underground ;
- (c) all apparatus used shall be of a type approved by the Board of Trade of the United Kingdom.

Rescue
teams.

115. At every mine to which regulation 114 applies there shall be maintained and organised rescue workers, trained in the use of the above apparatus, in the following numbers :—

- (a) where more than one hundred and less than one thousand underground workers are employed, at least four trained men ;
- (b) for every subsequent one thousand underground employees or part of one thousand employees at least one trained man.

Guidance to
manager.

116. Save where otherwise provided in these regulations the manager shall be guided, as nearly as may be, by the provisions of the United Kingdom Coal Mines Act and the Regulations made thereunder.

PART X

WORKMEN

Record of
employees
to be kept.

117. A sufficient record shall be kept in the office at every mine of all persons employed in and about the mine.

Miners' hats.

118. (1) (a) Eighteen months after these regulations come into force, all persons working underground shall wear a miner's hard hat of a pattern approved by an inspector.
- (b) The provisions of this sub-regulation shall not apply to loto mining. (*Added by 18 of 1947.*)

(2) In any case of any employee who is an African such hat shall be provided by the management free of cost.

First aid.

119. In any area held under licence, right or lease, where thirty or more persons are ordinarily employed, stretchers, splints,

Minerals

bandages and other first aid appliances shall be kept ready to hand in the care of a person capable of using them and in an underground working with any working other than a main shaft steeper than thirty degrees from the horizontal the stretcher shall be of a naval pattern.

120. (1) At every mine where cyanide is used there shall be kept in a conspicuous and convenient place a sufficient supply of an efficient antidote for cyanide poisoning approved by the Director of Medical Services. Cyanide
antidote.

(2) Such antidote shall be kept in a box labelled "Cyanide Antidote", and explicit directions for the use of such antidote shall be affixed inside the lid of such box.

121. It shall be an offence against these regulations to sleep in a mine. Sleeping
forbidden.

122. No person known to be suffering from tuberculosis or leprosy may be employed underground. Tuberculosis
and leprosy.

123. (1) No person in a state of intoxication or in any other condition which may render or be likely to render him incapable of taking care of himself or of persons under his charge shall be allowed to enter a mine or to be in proximity of any working place on the surface or near to any machinery in motion within any mining property and any person who has entered a mine or is found in any working place or below ground in an unfit state for work owing to intoxication or other reason may be arrested by the manager or some person duly appointed by him and without delay handed over to the police. Intoxication.

(2) No intoxicating liquor shall be taken by any person into any mine or to any place of work at a mine except with the special permission of the manager and no workman shall otherwise have intoxicating liquor in his possession whilst at work or at a place of work. Intoxicating
liquor.

124. Subject to any directions that may be given by any official of the mine, no workman shall, except so far as may be necessary for the purpose of getting to and from his work, or in case of emergency or other justifiable cause necessarily connected with his employment, go into any part of any mine other than that part in which he works, or travel to or from his work by any road other than the proper travelling road and no person other than an inspector, workman or official of the mine shall enter the mine except with the permission of the manager. Unauthorised
persons
prohibited.

Minerals

125. (1) (a) There shall be provided underground sufficient and suitable accommodation in the way of sanitary conveniences.

(b) The provisions of this sub-regulation shall not apply to lode mining. (Added by 18 of 1947.)

(2) No wood shall be used in the construction of sanitary conveniences underground.

126. No person shall, without authority, pass beyond any fence or danger signal, or open any locked door.

127. (1) No person employed in or about a mine shall negligently or wilfully do anything likely to endanger life in the mine or the safety of the mine, or negligently or wilfully omit to do anything necessary for the safety of the mine or of the persons employed therein.

(2) No person shall fight or behave in a violent manner in or about a mine.

PART XI

SAFE DISPOSAL OF WASTE

128. Water containing poisonous or injurious chemical solutions used in the treatment of gold or other ores or for other purposes must be effectively fenced off to prevent inadvertent access to it and notice boards shall be put in suitable places to warn persons from making use of such water.

129. When sand is used for filling worked-out areas underground, the moisture content in such sand and the liquid draining therefrom shall not have a higher cyanide content than 0.005 per centum expressed as cyanide of potassium.

130. (1) An inspector may serve on any manager a written order as to the disposing of slime or other waste in a safe manner.

(2) The provisions of regulation 147 shall apply to such order. (Added by 18 of 1947.)

PART XII

RESPONSIBILITY

131. (1) The person responsible for the work on an exclusive prospecting licence shall dwell thereon or within ten miles thereof, unless exempted in writing by the Chief Inspector, and the person responsible for the work on a mining right or mining lease shall dwell thereon or within six miles thereof.

Minerals

(2) The manager shall be responsible for the work on an exclusive prospecting licence, mining right, mining lease or right of occupancy ancillary thereto and for the enforcement of any regulations governing the use, storage and supply of explosives unless he has, in writing, appointed some competent person to be in charge of a specified area. A copy of such letter of appointment shall be sent to the inspector in charge of the inspectorate. (*Amended by 18 of 1947.*)

(3) The manager may delegate his responsibility in respect of welfare, health and housing conditions to a person approved by the Commissioner of Labour.

(4) Any holder or lessee or the agent thereof who is not managing his own prospecting or mining operations shall without delay notify the inspector in charge of the inspectorate in writing the name of the person appointed to manage such prospecting or mining operations.

(5) The person responsible for the work on an exclusive prospecting licence, mining right or mining lease under the provisions of this regulation shall have in his possession a copy of the Minerals Ordinance and of the regulations made thereunder. (*Added by 18 of 1947.*)

132. The working of a mine shall be carried on under the control and responsibility of the manager. Responsibility for working.

133. Where in any of the provisions of these regulations no particular person is named as being directly responsible the responsibility shall remain with the manager. General responsibility.

134. Where an accident has been caused through an incompetent or inexperienced workman or workmen being employed on dangerous work the manager shall be responsible. Accident by reason of incompetence.

135. The manager shall provide for the safety and proper discipline of the men employed above and below ground, and shall appoint such persons as may be necessary to carry out the provisions of these regulations or any part thereof. Safety and discipline.

136. The manager shall be responsible for compliance with any order made under sub-section (c) of section 81 of the Minerals Ordinance. Orders by mines officers.

137. The manager of a mine shall be responsible for the sanitary condition of such mine underground. Sanitation.

Minerals

Storage and supplies of explosives, etc.

138. It shall be the duty of every manager to carry out and enforce all provisions of these regulations and any regulations governing the use, storage and supply of explosives, and the manager shall appoint, in writing, to be officials of the mine such persons as are necessary to carry out these provisions and to ensure the thorough supervision of all operations in and about the mine.

Materials and appliances.

139. The manager shall ensure that, at all times, a sufficient supply of proper materials and appliances for the purpose of carrying out the provisions of these regulations and ensuring the safety of the mine and the persons employed therein is always provided and he shall specify the manner in which supports are to be set and advanced and the maximum intervals to be observed on roadways between the supports, and at the face—

- (a) between each row of props ;
- (b) between adjacent props in the same row ;
- (c) between the front row of props and the face ;
- (d) between any holing props or sprags ;
- (e) between chocks.

Qualifications of manager of coal mine.

140. Every coal mine shall be under one manager who shall be responsible for the control, management and direction of the mine and shall be the holder of such certificate as would be required by the laws of the United Kingdom or their equivalent.

PART XIII

PLANS NECESSARY FOR SAFETY

Plans to be kept.

141. (1) The following plans, on which both true and magnetic meridian shall be shown, must be kept and must be brought up to date at least every six months :—

Surface plan.

(a) Surface plan, on cloth, of the property appertaining to the mine, which shall show on a scale of 1 : 500, 1 : 1,000 1 : 2,500 or 1 : 5,000 at the discretion of an inspector—

(i) the boundaries and registered numbers of exclusive prospecting licences, mining rights, mining leases, water licences and rights of occupancy ;

(ii) the outcrops and dip of the lode or lodes or other mineral or alluvial deposits ;

(iii) all open surface workings, shaft openings, bore-holes, tailing and other dumps ;

Minerals

(iv) buildings, watercourses, reservoirs, public roads, railways, permanent tramways, electric power lines, public telegraph and telephone lines, cableways, main pipe lines, fences and all surface objects which it is needful to protect against undermining.

(b) Underground plan on cloth which shall show on a scale of 1 : 500— Under-ground plan.

(i) all mine workings whether abandoned or in use. Portions of the mine which have been worked out must be shown shaded or hatched ;

(ii) underground dams ;

(iii) faults, dykes and important changes in the dip of the lode or mineral bed, and where the average dip of the lode or deposit be less than forty-five degrees then the horizontal projection should be shown on plan, and if the average dip be forty-five degrees or more the vertical projection must be given.

(c) A ventilation plan on a scale of 1 : 2,500, showing the system of ventilation in the mine, and in particular the general direction of the air currents, the points where the quantity of air is measured and all devices for the regulation and distribution of the air, and on every such plan the intake airways shall be indicated by blue arrows and the return airways by red arrows. All ventilation doors, stoppings, air crossings, fire dams or seals, and regulators and all telephones and ambulance stations shall be shown by the signs in the Third Schedule. Ventilation plan.

(d) If required by the Chief Inspector an electrical installations plan showing on a scale of 1 : 2,500 the position of all fixed electrical appliances in the mine other than telephones and haulage signalling apparatus. The system of cables for distribution of current need not be shown unless so ordered. Third Schedule. Electrical installations plan.

(2) Where, prior to the coming into force of these regulations, plans of the mines as required by this regulation were kept, but on different scales to those stipulated in this regulation, such mines may continue to use such scales for such parts of the mine as may be approved, provided that an inspector is satisfied that they are satisfactory for all working requirements. Plans prior to these regulations.

Copies to be deposited with the Chief Inspector.

142. (1) Two copies of the underground mine plan on cloth shall be deposited at the office of the Chief Inspector and shall at the request of the Chief Inspector be brought up to date at the end of each year.

(2) The copies of the underground mine plan deposited at the office of the Chief Inspector shall be certified as correct by the manager.

Transverse sections of shafts.

143. Transverse sections of the principal shafts in use shall be made if the Chief Inspector so requires.

Plans not kept up.

144. (1) If on any mine the plans required by regulation 141 be not made, or be not kept as required, the Chief Inspector may have such plans or necessary additions to the plans made at the expense of the manager.

Copies of plans not sent.

(2) If the copies of the underground mine plan be not sent as required by regulation 142 or if such copies sent be not made according to these regulations, the Chief Inspector may have such plan or any necessary addition to such plan made at the expense of the manager.

Plans not to be made public.

145. No copies of the plan referred to in regulations 141 to 144 inclusive or any information concerning them, shall be given by any Government officer to any unauthorised person; nor shall such plans be open to the inspection of any unauthorised person without the written permission of the manager:

Provided that nothing in this regulation shall prevent officers of the Mines Department showing or supplying to the public maps showing boundaries of titles and topography.

Abandonment of mine.

146. Before a mine or any part of a mine is abandoned or closed down or rendered inaccessible, all underground plans shall be brought up to date, and copies thereof shall be deposited with the Chief Inspector.

PART XIV

GENERAL

Obligation to remedy any dangerous practice.

147. (1) Where in the exercise of the powers under section 81 or 115 of the Minerals Ordinance an inspector considers any mine or any matter, thing or practice in or connected with a mine to be dangerous or defective so as in his opinion to threaten or tend to the bodily injury of any person, he may give notice in writing thereof to the manager with a copy to the lessee or holder of the

Minerals

right or licence or his agent and shall state in such notice the particulars in which he considers such mine, matter, thing or practice to be dangerous or defective and shall require the same to be remedied, either forthwith or within such time as he may specify, and may order work to be suspended until the danger is removed to his satisfaction.

(2) On receipt of the notice issued under sub-regulation (1), the manager shall comply therewith, or, if he intends to object thereto, he shall cease to use the said mine, or part thereof, thing or practice, as to which notice has been given and shall forthwith withdraw all men from the danger indicated in such notice until such time as the matter is determined by the Chief Inspector :

Provided that if, in the opinion of the officer who made the order, there be no immediate danger, he may allow work to proceed during such period, under such restrictions and upon such conditions as he may consider necessary and shall specify in writing to ensure the safety of the workmen.

(3) (a) When the manager is aggrieved by the provisions of the matter in any notice under the last preceding sub-regulations, he may within ten days after the receipt thereof, state his objection in writing to the Chief Inspector and thereupon the matter shall be determined by the Chief Inspector or by such officer as he may appoint on that behalf.

(b) The Chief Inspector, or such officer, may take into consideration any reports bearing on the mine, thing or practice considered dangerous or defective and the degree of skill of those to be employed in the mine.

(4) Any manager aggrieved by a decision made under the provisions of sub-regulation (3) may, within thirty days of the notification to him of that decision, appeal to the Supreme Court.

(5) No person shall be precluded or excused by any agreement from doing such acts as may be necessary to comply with the provisions of sub-regulations (1) to (4) inclusive or be liable under any agreement to any penalty or forfeiture for doing such acts.

148. (1) Any person who contravenes or fails to comply with the provisions of any of these regulations shall be guilty of an offence and liable on summary conviction to a fine not exceeding two hundred pounds or to imprisonment for two years or to both such fine and imprisonment and, in addition, where the offence

Offences and
penalties.

is a continuing one, be liable to a fine of five pounds in respect of each day the offence continues.

(2) Where under the provisions of these regulations a duty is placed upon any person the onus of proving that all reasonable steps have been taken to fulfil that duty shall lie upon the person charged with the breach thereof.

FIRST SCHEDULE

NIGERIA

FORM I

Reg. 25.

5 of 1946.

The Safe Mining Regulations

APPLICATION FOR A MINING BLASTING CERTIFICATE

(This form to be submitted to a prescribed officer with fee of five shillings. In the case of a Government employee the fee is waived under regulation 25 (4).)

6 of 1946.

- (1) Full name of applicant.....
- (2) Year of birth..... (3) Nationality.....
- (4) Address at which notices may be served.....
- (5) (a) Have you previously made application in Nigeria for the issue of a Blasting Certificate under the Explosives Regulations or a Mining Blasting Certificate under these regulations? If so where?.....
- (b) If the application was granted state the number, year and reason for now requiring another.....
- (6) Have you held a blasting certificate in any other country? If so, give particulars.....
- (7) Have you ever held a blasting certificate or mining blasting certificate issued in Nigeria which has at any time been suspended or revoked? If so, give particulars.....
- (8) Are you in possession of detonator crimpers?.....
- (9) For which of the following do you require a Mining Blasting Certificate to be issued:—
- (a) For surface or opencast workings.....
- (b) Prospecting or mining operations except in a fiery mine.....
- (c) Prospecting or mining operations including a fiery mine.....
- (10) Do you wish to use electricity for shot-firing when blasting?.....

I hereby certify that this is a true statement of the particulars herein set forth.

Date....., 19.....

Signature (or thumb print if illiterate)

Minerals

SCHEDULE—continued

NIGERIA

FORM II

Reg. 25.

Original to grantee.

Duplicate to Chief Inspector of Mines.

Triplicate retained by the Issuing Officer.

The Safe Mining Regulations

5 of 1946.

MINING BLASTING CERTIFICATE

This is to certify that (full name of holder).....
of in Division Province, is
authorised to use explosives for blasting in connexion with prospecting or
or mining operations in:—

- (a) Surface and opencast workings.
(b) In a mine except a fiery mine.
(c) In a mine including a fiery mine.

The holder is authorised to use electricity for shot-firing when blasting.
(The issuing officer must cross out the words not required.)

Issued at..... this..... day of....., 19....

Signature (or thumb print if illiterate).....

Signature of the prescribed officer.....

Rank of the prescribed officer.....

[This certificate is valid for a period of five years from the date of issue but
may be renewed free of charge for succeeding periods of five years each on
application to a prescribed officer.]

VARIATION

This is to certify that I have this day included in this certificate authority
to carry out blasting operations:—

- (b) In a mine except a fiery mine. (c) In a mine including a fiery mine.

Signature of the prescribed officer.....

Rank of the prescribed officer.....

Office..... Date....., 19....

SECOND SCHEDULE

SHAFT PILLARS

The radius of the pillar which shall be left unworked at the bottom of
any shaft shall be calculated according to the formula:—

Radius in feet = Depth of shaft in feet divided by six plus the
square root of twice the product of the depth of shaft in feet and
the thickness of the stratum in feet.

The thickness of the stratum means the thickness of any mineral bed or
ore body plus any waste rock which it is necessary to work or stope out with
the minerals.

$$\text{radius of shaft pillar in feet} = \frac{\text{Depth of shaft in feet}}{6} + \sqrt{\frac{2 \times \text{depth of shaft in feet}}{\text{thickness of stratum in feet}}}$$

Minerals

Reg. 141.

Third Schedule
CODE OF SIGNS

Brick, Stone, or Concrete Stoppings, explosion proof.....	
Brick, Stone, or Concrete Stoppings other than the above.....	
Fire Dams or Seals.....	
Doors.....	
Regulators.....	
Air Crossings, explosion proof.....	
Air Crossings other than the above.....	
Telephones.....	
Underground Ambulance Station (in red).....	
Direction of Air Current.....	
Intake Airways — Blue	Return Airways — Red

Minerals

ORDER UNDER REGULATION 64 OF THE MINERALS REGULATIONS. 4 of 1946.

1. This order may be cited as the Deposit of Tailing (Prohibition) Order, 1946.

Public Notice
32 of 1946
(25th Feb.)

2. The deposit of tailing is hereby prohibited in the areas set out in the Schedule hereto.

Prohibition
of deposit of
tailing in
certain areas.

SCHEDULE

The Ouree River and upper Vom Stream, and their respective sources to the places where they intersect a straight line joining Beacon No. O.U. 61 and Beacon No. O.U. 65; the positions of the beacons are shown upon Survey Drawing No. M. 2478 which is deposited in the office of the Land and Survey Department at Jos.

NOTICE UNDER REGULATION 74 OF THE MINERALS REGULATIONS. 4 of 1946.

Notice is hereby given to the holders of mining leases, mining rights and exclusive prospecting licences that they are required to declare on their monthly mineral returns all the areas on which they have, during the period for which the return is made, carried out underground mining operations.

Public Notice
33 of 1946
(25th Feb.)

NOTICE UNDER REGULATION 25 (2) OF THE SAFE MINING REGULATIONS. 5 of 1946.

Notice is hereby given that the officers set out hereunder are authorised to issue mining blasting certificates of all categories:—

Public Notice
25 of 1946
(25th Feb.)
219 of 1947
(11th Dec.)

(a) Inspectors of Mines;

(b) The Colliery Manager in respect of employees of the Colliery Department.

(c) Water Supply Engineers. (*Added by 219 of 1947*).



REGULATIONS

MADE UNDER

THE MINERALS ORDINANCE, 1945

(No. 55 of 1945)

In exercise of the powers conferred upon the Governor in Council by section 120 of the Minerals Ordinance, 1945, the following regulations are hereby made:—

1. These regulations may be cited as the Safe Mining (Amendment) Regulations, 1949, and shall come into operation on the 1st day of October, 1949.

2. Regulation 109 of the Safe Mining Regulations, 1946, is hereby revoked and the following substituted therefor:—

" Nigerian
Coal Mines
Examination
Board.

109. (1) There shall be a Board of Examiners (to be known as the Nigerian Coal Mines Examination Board) for the examination of applicants for Second Class Certificates of Competency for the purposes of these regulations, and the Board shall consist of the Manager of the Nigerian Government Collieries and three other persons, one of whom shall be a representative of the Management of the Nigerian Government Collieries, appointed by the Governor for such period as the Governor may think fit.

(2) The Governor may for any cause which he shall think sufficient revoke the appointment of any person appointed by him to be a member of the Board and may nominate any person to fill the place of any member of the Board who may be unable to attend any meeting of the Board.

(3) The Board shall hold examinations for the purpose of ascertaining the fitness of applicants for Second Class Certificates of Competency and for such other purposes as the Governor may from time to time direct at such times and in such places as may be fixed by the Board.

(4) The Board shall make rules for the conduct of examinations and such rules shall be subject to the approval of the Governor who before giving his approval may make such amendments to them as he may think fit.

(5) No person shall be admitted to be examined for a Certificate of Second Class Competency unless he—

(a) has attained the age of 23 years;

(b) has had at least five years practical experience in coal mines either in Nigeria or partly in Nigeria and partly elsewhere;

Short title
and
commence-
ment.

Revocation and
replacement of
regulation 109
of Regulations
No. 5 of 1946.

(c) has furnished testimonials or other evidence of good character to the satisfaction of the Board.

(6) The Board shall deliver to every applicant who passes the examination satisfactorily a Second Class Certificate of Competency and shall keep a register of the holders of such certificates.

Qualification
of officials.

109A. No person other than persons holding such office on the 1st day of October, 1949, shall hold any office in a coal mine superior to an underground foreman unless he is the holder of either :

- (a) a Second Class Certificate of Competency awarded by the Board hereby constituted, or
- (b) a certificate which in the opinion of the Board is equivalent to such Second Class Certificate and awarded by any other examining body duly recognised by the Board for this purpose.

Withdrawal
and restoration
of certificate.

109B. If at any time representation is made to the Governor by an Inspector or otherwise that any person holding a Second Class Certificate of Competency under these regulations is, by reason of incompetence or gross negligence or misconduct in the capacity of, or whilst temporarily performing the duties of an Overman or Under Manager of a mine, unfit to continue to hold a certificate of competency, or has been convicted of an offence against these regulations, the Governor may, if he thinks fit, cause enquiry to be made into the conduct of that person and with respect to every such enquiry the following provisions shall have effect :—

- (a) the enquiry shall be public and shall be held at such a place as the Governor may direct by such Puisne Judge or Magistrate or other person or persons (hereinafter in this section referred to as the Court) as may be appointed by the Governor;
- (b) the Governor shall before the commencement of the enquiry cause to be furnished to the person into whose conduct the enquiry is to be made a statement of the case on which the enquiry is instituted;
- (c) the person into whose conduct the enquiry is made may attend the enquiry by himself, his counsel, solicitor, or agent and may be heard and examined as a witness;
- (d) the court shall, on conclusion of the enquiry, send to the Governor a report containing a full statement of the case and the opinion of the court thereon and such report of, or extract from, the evidence as the court may think fit;

- (e) the Governor shall have the power to cancel or suspend the certificate of the person into whose conduct the enquiry is made if the court recommends that he is, by reason of incompetence, or of such gross negligence or misconduct as aforesaid or of his having been convicted of an offence against these regulations, unfit to continue to hold a certificate of competency;
- (f) the court may require the person into whose conduct enquiry is made to deliver up his certificate. The court shall hold the certificate so delivered until the conclusion of the investigation and shall have the power to suspend such certificate until the decision of the Governor shall be known;
- (g) the Governor may, at any time, if it is shown to be just so to do, renew or restore, on such terms as he thinks fit, any certificate which has been cancelled or suspended in pursuance of these regulations and shall cause the renewal or restoration to be recorded in the register;
- (h) where a certificate of competency under these regulations is cancelled or suspended in pursuance of these regulations, the Governor shall cause the cancellation or suspension to be recorded in the register of holders of certificates."

MADE by the Governor in Council at Lagos this 22nd day of September, 1949.

P. H. BALMER,
Clerk of the Executive Council.



Colony and Protectorate of Nigeria—1948 Revision

CHAPTER 135

MINERAL OILS

(*Colony and Protectorate*)

AN ORDINANCE TO REGULATE THE RIGHT TO SEARCH FOR, WIN AND WORK MINERAL OILS.

Ordinances
No. 17 of
1914*
1 of 1925.

[31st December, 1914]

1. This Ordinance may be cited as the Mineral Oils Ordinance.

Short title.

2. Definitions :—

Interpreta-
tion.

“mineral oils” includes bitumen, asphalt, and all other bituminous substances with the exception of coal ;

“mining” means any operation for raising, winning or getting mineral oils.

3. It shall not be lawful for any person to search or drill for or work mineral oils within or under any lands in Nigeria except under a licence or lease granted by the Governor under this Ordinance :

Licence or
lease
required for
searching for
or working
mineral oils.
Saving as to
licences and
leases
granted
under
Ordinance
repealed.

Provided that nothing in this Ordinance contained shall affect any licence or lease granted under any Ordinance⁽¹⁾ repealed by this Ordinance, which licence or lease shall for all purposes have effect as if this Ordinance had not been made.

Penalty :—Fine of five hundred pounds, or imprisonment for twelve months, and forfeiture of all mineral oils raised, won or gotten.

4. It shall be lawful for the Governor, subject to the provisions of section 6, to grant licences to enter upon any lands in Nigeria specified in any such licence, and to mine, bore, quarry, dig, search for and work all mineral oils within or under such lands, and to carry away and dispose of the produce thereof under and subject to such conditions as to the Governor may seem proper.

Governor
may grant
licence to
search for
and work
mineral oils.

5. It shall be lawful for the Governor, subject to the provisions of section 6, to grant leases of mineral oils in or under any lands in Nigeria specified in the lease, together with such powers and liberties as may be reasonably necessary to enable the

Governor
may grant
leases of
mineral oils.

* Chapter 94 of the 1923 edition of the Laws : applied to the Cameroons under British Mandate by Ordinance No. 1 of 1925.

(1) Laws of Southern Nigeria, Chapter 130, and Ordinance No. 19 of 1909.

Mineral Oils

lessee to search for, win and work such mineral oils, and to carry away and dispose of the produce of the same, subject to such covenants and conditions as to the Governor may seem proper.

Powers conferred upon Governor to be exercised subject to certain conditions.

6. (1) The powers conferred upon the Governor by sections 4 and 5 shall be exercised subject to the following conditions:—

- (a) no lease or licence shall be granted except with the approval of the Secretary of State;
- (b) no lease or licence shall be granted except to a British subject or to a British company registered in Great Britain or in a British colony, and having its principal place of business within His Majesty's dominions, the chairman and the managing director (if any) and the majority of the other directors of which are British subjects;
- (c) every lease and licence shall be granted subject to the condition that the lessee or licensee shall pay (i) to any person in lawful occupation of the land, such compensation for disturbance of surface rights, and (ii) in the case of land which is neither Crown land nor land declared to be native land under the Lands and Native Rights Ordinance to the owner or owners of the land such compensation for the exercise of the rights, powers and liberties conferred by the lease or licence as the Governor may from time to time determine.

Cap. 105.

(2) The condition (b) in sub-section (1) shall be omitted in the application of this Ordinance to the Cameroons under British Mandate. (*No. 1 of 1925.*)

Penalty for obstructing holder of licence or lessee.

7. Any person who shall interfere with or obstruct the holder of a licence or lessee, or his agents or workmen, in the exercise of any right, power or liberty conferred by any licence or lease granted under this Ordinance shall be liable to a fine of twenty-five pounds or to imprisonment for three months.

Government officers prohibited from acquiring rights under licences or leases.

8. No person while in the service of the Government shall directly or indirectly acquire or hold any right or interest under any licence or lease granted under this Ordinance: and any lease or licence purporting to confer any such right or interest on such officer shall be void.

Power to make regulations.

9. The Governor in Council may make regulations for any matter connected with the carrying of this Ordinance into effect.

Colony and Protectorate of Nigeria—1948 Revision

CHAPTER 135

MINERAL OILS

(Colony and Protectorate)

[Ordinance No. 17 of 1914 repealed and re-enacted No. 12 of 1907, the Mining Regulation (Oil) Ordinance; under section 13 of the latter the Governor had power to make rules, with the consent signified by resolution of the Legislative Council, as to fees, deposits, rents, royalties and forfeiture, and under section 22 the Governor in Council had power to make rules generally with respect to any matter connected with the carrying of that Ordinance into effect. Rules were made under these two sections and appear in the First and Second Schedules to Chapter 130 in the 1908 edition of the Laws of the Colony of Southern Nigeria. They were omitted from the 1923 edition of the laws (page 600 of Vol. III). No regulations have been made under section 9 of Ordinance No. 17 of 1914.]

Colony and Protectorate of Nigeria—1948 Revision

CHAPTER 155

NIGERIA TOWN AND COUNTRY PLANNING

(*Colony and Protectorate*)

AN ORDINANCE TO MAKE PROVISIONS FOR THE REPLANNING, IMPROVEMENT AND DEVELOPMENT OF DIFFERENT PARTS OF NIGERIA. *Ordinances*
No. 4 of
1946
29 of 1946.

[28th March, 1946]

PART I

PRELIMINARY

1. This Ordinance may be cited as the Nigeria Town and Country Planning Ordinance. Short title.

2. (1) Definitions :—

“Authority” or “the Authority” means an executive authority appointed under section 4;

*Interpreta-
tion.*

“building operations” include any road works preliminary or incidental to the erection of buildings;

“court” means either the Supreme Court or a native court as the case may be;

“development” in relation to any land includes any building or rebuilding operations and any use of the land or any building thereon for a purpose which is different from the purpose for which the land or building was last being used :

Provided that the laying down by the occupier of farmland to fallow or any change of crops grown or to be grown or in the method of their cultivation by the said occupier shall not be deemed to be development save in so far as the Governor, the Authority or a native authority may determine;

“existing building” means a building erected or constructed before the date of the order declaring a planning area under section 10, and includes a new building within the meaning of the Townships Ordinance;

Cap. 216.

“fence” includes any hoarding, paling, banks and walls used as such;

Nigeria Town and Country Planning

- “hedge” includes any tree or shrub forming a part of a hedge ;
- “holding” means any piece or parcel of land, and “original holding” and “final holding” means respectively, with reference to a scheme which provides for the redistribution of holdings, a holding prior to its amalgamation with other holdings for the purpose of redistribution and a holding allotted in pursuance of redistribution ;
- “land” includes land covered with water and also everything attached to the earth or permanently fastened to anything which is attached to the earth and also all chattels real and tenures of every description and any interest therein and also undivided shares of land but does not include minerals ;
- “owner” includes joint owner, lessee, tenant for life, and any other person in the actual possession of premises or entitled to receive the rents of premises of any tenure or description, and the agent or attorney of such persons or any of them, and any other person who has an interest in or draws the rents ;
- “planning area” means an area declared by the Governor by order in Council to be an area to which this Ordinance relates and “planned area” shall be construed accordingly ;
- “premises” includes messuages, buildings, lands, tenements and hereditaments ;
- “responsible authority” means, with reference to a scheme, the authority named in the scheme as responsible for the due execution of the scheme or any part thereof ;
- “road” means any road whether public or private and includes any street, square, court, alley, lane, bridge, footway, trace, bridle path, path, passage or highway, whether a thoroughfare or not ;
- “scheme” means a town or country or a joint town and country planning scheme made under this Ordinance ;
- “site” in relation to any building includes offices, outbuildings, yards, courts or gardens occupied or intended to be occupied therewith.

(2) For the purposes of this Ordinance the placing or keeping on any land of any shed, tent or other object whether fixed or movable or collapsible, which is not a building shall be a use of that land.

Nigeria Town and Country Planning

PART II

PLANNING SCHEMES AND PLANNING AUTHORITIES

3. A planning scheme may be made under this Ordinance with respect to any land, whether there are or are not buildings thereon, with the general object of controlling the development and use of land comprised in the area to which the scheme applies, of securing proper sanitary conditions, amenity and convenience, and of preserving buildings or other objects of architectural, historic or artistic interest and places of natural interest or beauty and generally of protecting existing amenities whether in urban or rural portions of the area.

Scope of
planning
schemes.

4. (1) Where the Governor is of the opinion that a scheme should be made for any part of Nigeria he may appoint a planning authority for such area, which planning authority shall contain adequate local representation.

Governor
may
appoint
planning
authorities.

(2) Such planning authority shall be the executive authority for the planning and carrying through of any scheme under this Ordinance relating to the area for which the planning authority was appointed.

(3) The same planning authority may be appointed for one or more areas.

5. (1) Subject to the provisions of sub-section (2) :—

(a) the Authority shall consist of such members as the Governor may appoint,

(b) the Governor may appoint one of the members of the Authority to be the chairman of the Authority.

(2) Notwithstanding the provisions of sub-section (1) the Governor may at any time by notice in the Gazette—

(a) appoint additional members to the Authority for such purpose as may be specified in such notice ;

(b) vary the constitution of the Authority by appointing other persons as members of the Authority in substitution for those originally appointed ;

(c) appoint a different chairman in the place of the one originally appointed.

(3) The Authority shall, if it considers such action desirable, have the power to co-opt as members of the Authority for such

Membership
of planning
authorities.

Nigeria Town and Country Planning

period or for such purpose as it deems fit any person or persons interested in the development of the area in connexion with which the Authority has been constituted :

Provided that while a member so co-opted shall have all the rights of a member he shall not be entitled to vote.

(4) Where the Governor appoints a native authority to be a member of the Authority and that native authority is not an individual, such native authority may be represented by any member thereof authorised from time to time by the native authority concerned to act on its behalf and such native authority shall be bound by the acts and decisions of its member so authorised.

(5) Where the Governor appoints a native authority as a planning authority the provisions of section 8 relating to a quorum shall not apply unless the Governor otherwise directs and the business of the native authority shall be conducted in accordance with its standing rules and orders and in the absence of such standing rules and orders, in such manner as the Governor may approve.

Secretary of
planning
authority.

6. The Governor, or the Authority with the approval of the Governor, may appoint a member or some other person to be the secretary to the Authority.

Names and
incorporation
of planning
authorities.

7. (1) The Authority shall be given by the Governor a name indicative of the area or place in which the Authority is carrying out its duties and such name shall include the words "planning authority".

(2) The Authority shall be a body corporate and have perpetual succession and a common seal of such device as may be approved by the Governor and may sue and be sued by the name aforesaid.

(3) The seal of the Authority shall be authenticated by the signatures of the chairman or some other member of the Authority authorised by the Authority to act in his stead in that behalf, and of the secretary to the Authority or some person authorised by the Authority to act in his stead in that behalf and a record shall be kept of every occasion on which the seal is used.

(4) Every document purporting to be an instrument executed by the Authority and to be sealed with the seal of the Authority

Nigeria Town and Country Planning

authenticated in the manner provided by sub-section (3) shall be officially and judicially noticed and be deemed to be such an instrument without further proof unless the contrary be shown.

8. (1) The chairman may, whenever he thinks fit, call a meeting of the Authority and subject as aforesaid the Authority shall meet and shall from time to time make such arrangements with respect to the place, day, hour, notice, management and adjournment as it may think fit.

Conduct of
business.

(2) The Governor may specify the number of members of the Authority, inclusive of the chairman, necessary to form a quorum and in the absence of such specification a quorum shall consist of not less than half the total membership of the Authority, and provide for the selection of a chairman in the absence of the chairman appointed under section 5.

(3) The chairman in addition to his vote as a member of the Authority shall also have a casting vote in cases where the votes are equally divided.

9. (1) The Authority, subject to the provisions of sub-section (2), shall carry out its duties under this Ordinance in accordance with such general or specific directions as the Governor may give, such directions not conveying any power or right additional to or in extension of any of the powers or rights conferred upon the Authority by this Ordinance.

General
powers of
the
authority.

(2) When constituting an Authority or at any time after the Authority has been constituted the Governor may from time to time direct that the Authority shall not exercise certain specified powers under this Ordinance and thereupon such of the provisions of this Ordinance as relate to such powers shall not vest in the Authority.

(3) The Authority may engage or employ such officers and servants as are deemed necessary for the due and proper execution and enforcement of its duties under this Ordinance.

10. (1) Upon the appointment of an Authority the Authority shall make such investigation into the planning of the area in question as it may consider necessary and if the Authority is of the opinion that schemes should be made for the area or any part thereof and makes representation to that effect to the Governor in Council, the Governor in Council may by order

Declaration
of planning
areas.

Nigeria Town and Country Planning

declare that the area specified in such representation shall be a planning area :

Provided that the Governor in Council may before approving, modify the area specified in the Authority's representation by adding thereto or by omitting therefrom any portion or portions thereof.

(2) Such order shall be published in the Gazette and shall be given such further publicity as the Authority may consider necessary and shall come into operation upon the date of such publication in the Gazette and shall cease to have effect if within three years from such date no scheme in respect of the planning area has been approved under the provisions of section 18.

Interim
development
orders.

11. (1) When an order declaring a planning area has been published under section 10 no person shall, within the planning area, carry out any development of land or any construction, demolition, alteration, extension, repair or renewal of any building until a scheme is approved under section 18 for the area containing such land or building :

Provided that the Governor in Council may make a general order with respect to the interim development of land within the planning area and may make special orders with respect to the interim development of any such land in any particular area.

(2) Subject to the terms of any general order made by the Governor in Council under sub-section (1) the Authority may grant to any person applying in writing therefor interim development permission, subject to such conditions as it may deem necessary to impose, to develop land or to construct, demolish, alter, extend, repair or renew a particular building lying within the planning area.

(3) An application for interim development permission shall be deemed to be refused unless within two months of the date of its receipt by the Authority notice has been given that the Authority has decided—

- (a) to grant permission with or without conditions ;
- (b) to refuse permission ; or
- (c) to postpone consideration on the ground that the development cannot be carried out immediately.

(4) An aggrieved person may appeal to the Governor in Council against a decision made by the Authority under the

Nigeria Town and Country Planning

preceding sub-section and such appeal must be made within twenty-eight days of the receipt of such decision or of the date by which the application is deemed to have been refused.

(5) (a) Every person who otherwise than under a scheme as finally approved under section 18 proceeds with or does any work in a planning area without such permission shall be liable, on summary conviction, to a fine of twenty pounds and after conviction may be required by the Authority to remove any work performed and reinstate the land or building to the condition in which it was prior to the commencement of such work.

(b) If the person in question fails to comply with the requirements of the Authority the Authority may itself have such work performed and recover the cost thereof from the person convicted.

(6) For the purpose of this section the expression "interim development" means development between the date on which the declaration of a planning area takes effect and the date of the coming into operation of the scheme.

"Interim development".

PART III

PREPARATION AND APPROVAL OF SCHEMES AND SUPPLEMENTARY SCHEMES, AND VARIATION AND ABANDONMENT OF SCHEMES

12. Upon the declaration of a planning area the Authority shall either frame a planning scheme for such area or any part thereof or adopt with or without modification any scheme proposed by any or all of the owners of the land within such area.

Preparation of planning schemes.

13. (1) A scheme may be made under this Ordinance with respect to any land, in any township, native town, village, settlement or rural area, whether there are or are not buildings thereon, with the general object of controlling the development and use of the land comprised in the area to which the scheme applies, of securing proper sanitary conditions and conveniences, and the co-ordination of roads and public services, of protecting and extending the amenities and of conserving and developing the resources of such area.

Scope, contents and effect of schemes.

(2) Every scheme shall specify and define clearly the area to which it relates and shall include a plan in which shall be shown the extent of the scheme and such other matters as can conveniently be included therein.

Nigeria Town and Country Planning

First
Schedule.

(3) Every scheme shall contain such provisions as are necessary or expedient for prohibiting or regulating the development and use of land in the area to which the scheme applies, and generally for carrying out any of the objects for which the scheme is made, and in particular for dealing with any of the matters mentioned in the First Schedule.

(4) A scheme may provide for the redistribution of lands or for the readjustment of the boundaries and areas of any such lands.

(5) Any law relating to development, road construction, or building operations inconsistent with the provisions of a scheme or the application of which would tend to hinder the carrying out of the scheme shall not apply to the area to which the scheme relates :

Provided that where the scheme contains provisions suspending any enactment contained in an Ordinance or applied Act, the scheme shall not come into force unless a draft thereof has been submitted to and approved by the Legislative Council :

And provided further that the refusal of the Legislative Council to approve shall be without prejudice to the making of any new scheme.

Obligation to
give information to the
Authority.

14. (1) The Authority may, for any purpose arising in relation to the making, enforcement or carrying out of a scheme, by notice in writing require the owner of any land or building in the area to which such scheme relates or is intended to relate, to state in writing and deliver or forward by registered post to the Authority within sixty days of the date of the notice, particulars of his estate, interest in or right over or in respect of such land or building, and the name and address, and the estate, interest or right, so far as they are known to him, of every person who to his knowledge has any estate or interest in or right over or in respect of such land or building.

(2) Every person required to make and deliver or forward a statement under this section who shall wilfully make and deliver or forward any false statement, or fail or refuse to make and deliver or forward a statement, shall be liable, on summary conviction, to a fine of fifty pounds.

Power of
entry, examination and
survey for

15. (1) The Authority may at any time cause the whole or any part of any land to be entered upon, examined and surveyed

Nigeria Town and Country Planning

and the circumstances and requirements thereof to be investigated for the purpose of deciding whether or not a scheme should be made in respect of any such land or any part thereof and of making such scheme if decided upon.

preparation
of scheme.

(2) Any person authorised in that behalf in writing by the Authority may, for the purpose of any entry, examination, survey or investigation which the Authority is authorised by this section to cause to be made, and on production of such written authority, enter and there do anything which such person shall reasonably consider to be necessary for the said purpose.

(3) Every person who wilfully obstructs or interferes with any other person in the exercise by such other person of any power vested in him by virtue of this section shall be liable, on summary conviction, to a fine of twenty-five pounds.

16. (1) A scheme when framed shall be signed by the chairman where a chairman has been appointed under the provisions of this Ordinance and in other cases by the appropriate officer of the Authority.

Preparation
and publica-
tion of notice
as to scheme.

(2) The Authority shall forthwith prepare a notice stating—

- (a) the fact that the scheme has been framed ;
- (b) the boundaries of the area comprised in the scheme ; and
- (c) the place or places at which a copy of the scheme or plans of the area, and a statement of the land which it is proposed to acquire or such particulars as the Authority may deem necessary may be seen at reasonable hours.

(3) The Authority shall cause the notice referred to in sub-section (2) to be published in two issues of the Gazette and it shall be given such further publicity as the Authority may consider necessary.

(4) A copy of the scheme (together with the plans, if any) shall be deposited at the place or places mentioned in paragraph (c) of sub-section (2) for a period of fourteen days subsequent to the publication of such notice as aforesaid in the Gazette during which period the said scheme shall be open to the inspection of all persons interested free of charge.

(5) (a) The Authority shall, within one month after publication of such notice, if practicable, cause to be brought to the notice of every owner of property affected by the scheme the fact that his property is affected and require him if he wishes to

Nigeria Town and Country Planning

object to the scheme, to lodge an objection with the chairman within a period of six weeks from the date of the notice in the Gazette.

(b) In the case of areas not included in a township a notification in the manner in which the orders of native authorities are made known in the area shall be a sufficient compliance with paragraph (a).

(6) Any person affected by a scheme may within six weeks from the date of publication in the Gazette lodge with the chairman a written objection to any matter contained therein, other than an estimate of valuation.

(7) Every such objection shall within two months of its lodgment with the chairman be considered at a meeting of the Authority of which the objector shall be informed in writing.

(8) At such consideration the objector may appear and be heard in person or by duly authorised agent :

Provided that where the Authority is a native authority the agent may not be a legal practitioner.

(9) Where on the consideration of any such objection, or otherwise, the Authority considers any modification of the scheme to be necessary, it shall cause notice of such proposed modification to be given to any person who appears to it to be affected or likely to be affected thereby ; requiring him, if he wishes to object to such proposed modification, to lodge an objection with the chairman within a period to be stated in the notice, not being less than twenty-one days.

(10) If such objection be lodged within the period stated in the notice, the provisions of sub-sections (7) and (8) shall apply thereto.

Submission
of scheme to
Governor in
Council.

17. (1) Within three months of the consideration of all objections and modifications necessitated thereby the Authority shall submit the scheme to the Governor in Council.

(2) Every scheme submitted to the Governor in Council shall be accompanied by—

- (a) an estimate of the number of persons who will be dis-
housed by the execution of the scheme ;
- (b) a schedule of such objections as have been made under
section 16, giving the names of the persons by whom the
same were made ;

Nigeria Town and Country Planning

- (c) a schedule showing the way in which the Authority has dealt with such objections ;
- (d) a statement of the reasons for any modifications made in the scheme as originally framed ; and
- (e) the suggested method of dealing with dishoused persons.

18. (1) The Governor in Council may make an order approving a scheme submitted to him under section 17 or rejecting it or approving it with such conditions and modifications as he thinks fit.

Order of Governor in Council.

(2) The approval or rejection of any scheme under sub-section (1) shall be notified in the Gazette.

(3) Notification of the approval or rejection of any scheme under sub-section (2) shall be conclusive evidence that such scheme was duly framed and approved or rejected, as the case may be.

19. (1) A scheme shall not have effect unless and until it is approved by order of the Governor in Council, and before giving his approval the Governor in Council may make such modifications thereto as he thinks fit.

Scheme non-effective until approved.

(2) A scheme when so approved shall have effect as if enacted herein.

20. (1) In any case where a scheme prepared under the provisions of this Ordinance and approved under section 18 is in operation, the Authority may prepare or adopt a scheme for any part of the area within the original scheme.

Supplementary schemes.

(2) A scheme prepared under the preceding sub-section, and hereinafter referred to as a supplementary scheme, shall incorporate, with or without modifications, all such provisions of the original scheme as relate to the particular area and may include such additional provisions as may be necessary or desirable.

(3) The preparation of a supplementary scheme shall not affect the operation of the original scheme except that as from the date on which the supplementary scheme comes into operation it shall take the place of the original scheme in respect of the area or matters to which it applies.

21. If within six months from the date on which any scheme is submitted under section 17, approval or rejection of the same

When scheme deemed to be rejected.

Nigeria Town and Country Planning

has not been notified under section 18, such scheme shall be deemed to be rejected.

Deposit of
scheme after
approval.

22. When a scheme has been approved by the Governor in respect of the whole or part of a planning area, a copy of it shall be deposited for inspection in such office within the planning area as the Authority shall direct.

Abandon-
ment of
scheme.

23. (1) At any time after approval of a scheme has been notified under section 18, the Authority may, with the consent of the Governor in Council and for reasons which the Governor in Council considers satisfactory, abandon the scheme or any part thereof and thereupon such abandonment shall be notified in the Gazette and upon such abandonment being so notified any right, title or interest in any land which ceased to have any effect when the land became vested in the Authority by virtue of this Ordinance shall revert in all respects in the persons entitled thereto at the date on which any such land became vested in the Authority as if such right, title or interest had never ceased to have effect :

Provided that where land has been purchased by the Authority such land shall be disposed of as the Governor in Council may direct.

(2) Upon the abandonment of an approved scheme or any part thereof, the Authority shall pay compensation to any person who has incurred reasonable and necessary expenditure for the purposes of complying with such scheme, in so far as such expenditure is rendered abortive by reason of such abandonment.

(3) In case of dispute such compensation shall be assessed by the court as hereinafter mentioned.

Powers as to Matters not finally dealt with by the Scheme

Supple-
mentary
orders.

24. (1) The Authority may make orders (in this Ordinance referred to as supplementary orders) or adopt, with or without modifications, supplementary orders proposed by owners of land, as respects any area of the scheme, supplementing existing provisions or varying the scheme where necessary or expedient.

(2) A supplementary order requires the approval of the Governor in Council as if it were a scheme.

(3) A supplementary order shall be deemed to form part of

Nigeria Town and Country Planning

the scheme to which it relates and may be varied, modified or revoked by a subsequent supplementary order.

25. (1) The Authority may include in the scheme a provision prohibiting or restricting building operations to proceed pending the coming into operation of a general development order, which may be in respect of the whole or a part of the area subject to such prohibition or restriction and any such general development order shall require the prior approval of the Governor in Council.

General development orders.

(2) Within a period of three months from the expiration of each three years after the coming into operation of a scheme, the Authority shall consider the desirability of making a general development order in respect of all land which remains subject to prohibitions or restrictions.

(3) Any person aggrieved by the failure of the Authority to make a general development order as respects any land in which he is interested, may appeal to the Governor in Council for such an order to be made.

(4) A general development order may be revoked or varied by a subsequent general development order.

26. (1) Applications for permission to develop may be made in respect of areas subject to the coming into operation of a general development order.

Power to permit building pending the coming into operation of a general development order.

(2) The Authority may grant such applications, with or without conditions, where they are satisfied that the proposed development will not prejudice the proper carrying out of the scheme and that the operations will not—

(a) involve injury or danger to health or involve excessive or premature expenditure of public money; or

(b) be likely seriously to injure the amenities of the locality.

PART IV

EXECUTION OF SCHEMES

27. Where the scheme has been approved in respect of a planning area, the Authority shall be responsible for executing and enforcing the scheme.

Provision for execution of scheme.

28. (1) The Authority may enter into and perform all such contracts as it may consider necessary or expedient for carrying out any of the purposes of a scheme.

Power to make and perform contracts.

(2) Every such contract shall be approved by the Authority and shall be made on behalf of the Authority—

- (a) where there is a chairman, by the chairman ;
- (b) where the Authority is a native authority, in the manner in which contracts may lawfully be entered into by the native authority concerned.

Power to enforce and carry into effect schemes.

29. (1) The Authority may at any time—

- (a) remove, pull down, or alter, so as to bring into conformity with the provisions of the scheme, any building or other work which does not conform to those provisions, or the removal, demolition or alteration of which is necessary for carrying the scheme into effect or the erection or carrying out of which contravenes any provision of the scheme ;
- (b) where any building or land is being used in such manner as to contravene any provision of the scheme, prohibit it from being so used ;
- (c) where any land has been, since the date when the order declaring a planning area under section 10 of the Ordinance has been published, put to any use which contravenes any provision of the scheme, reinstate the land ;
- (d) execute any work which it is the duty of any person to execute under the scheme in any case where in the opinion of the Authority delay in the execution of the work has occurred and the efficient operation of the scheme has been, will or may be thereby prejudiced.

(2) Before taking any action under this section the Authority shall serve a notice on the owner and on the occupier of the building or land in respect of which the action is proposed to be taken and on any other person who, in its opinion, may be affected thereby, specifying the nature of and the grounds upon which it proposes to take such action.

(3) The date stated in a notice served under this section as the date on or after which the intended exercise of the power therein mentioned is intended to be begun shall be not less than three months when any building is affected, and in any other case not less than one month after the date of service of such notice, and the Authority shall not do any act or thing in exercise of such power in relation to the building or land mentioned in the notice before such date.

Nigeria Town and Country Planning

(4) Every person who uses any building or land in a manner prohibited under this section shall, in addition to any civil liability, be guilty of an offence and liable, on summary conviction, to a fine of twenty-five pounds.

30. Any person authorised in that behalf in writing by the Authority may, on production of such written authority, enter on any land in a planning area to which a scheme relates and there make such inspection, survey, examination and investigation and there carry out such work as may be necessary for the purposes of the enforcement or carrying out of a scheme.

Power of entry and survey for carrying out a scheme.

31. Every person who wilfully obstructs or interferes with any person in the lawful exercise of any power conferred by this Ordinance shall be liable, on summary conviction, to a fine of twenty-five pounds.

Penalty for obstruction.

32. Any person who wilfully does any act which is a contravention of a provision contained in a scheme shall be liable, on summary conviction, to a fine of fifty pounds and in the case of a continuing offence, to a further fine of five pounds for every day during which the offence continues.

Penalty for contravention of a scheme.

PART V

ACQUISITION AND DISPOSAL OF LAND FOR SCHEMES

33. (1) The Authority may, for the purpose of the execution of the provisions of this Ordinance, purchase any land in an area declared under section 10 to be a planning area such purchase being either by agreement or compulsorily in manner hereinafter provided notwithstanding that such land is not immediately required.

Power to purchase land.

(2) The Authority may, if requested by a person to whom compensation is payable under this section retain the sum payable for such period as may be agreed upon and while such sum is so retained pay to him interest thereon at the rate of four pounds *per centum per annum* or such lower rate as may be agreed upon.

34. Where an approved scheme provides for the acquisition of any land by the Authority all leases and all rights of occupancy under any tenancy in respect of such land which are existing at the time of the notification that the scheme is approved under section 18 shall be deemed to be terminated, if not previously

Determination of leases.

Nigeria Town and Country Planning

terminated by agreement, on the expiration of the period appointed in the scheme in that behalf, but without prejudice to any lessees' or occupiers' rights in any compensation payable under section 39 or 47.

Vesting of
land acquired
and payment
of compensa-
tion.

35. (1) Where an approved scheme provides for the acquisition of any land by the Authority such land shall vest in the Authority on such day as is appointed in the scheme in that behalf, free from incumbrances, but without prejudice to any lessees' or occupiers' rights in any compensation payable under section 39 or 47 :

Provided that in the Northern Provinces the land shall vest in the Authority as the agent for the Governor and subject to his direction.

(2) When any land situate in a planning area but not included in a scheme is to be acquired under the provision of section 33 such land shall vest in the Authority upon service of a notice by the Authority on the owner that such land is required by the Authority for the development of the area. All leases and rights of occupancy under any tenancy in respect of such land or building which are existing at the time of notification shall be deemed to be terminated, if not previously terminated by agreement, at the time of the service of the notice but without prejudice to any lessees' or occupiers' rights in any compensation payable under section 39 or 47.

(3) Upon service of a notice as in sub-section (2) the provisions of section 36 shall apply to such land as if provision for the acquisition of the same had been made in a scheme approved under section 18.

(4) When any land becomes vested in the Authority under the provisions of this section, the Authority shall by notice in writing proceed to offer to the owner thereof and to such other persons, if any, as have any interest therein, such compensation therefor as the Authority thinks fit.

Surrender of
possession.

36. (1) At any time after an approved scheme has been notified under section 18 the Authority may serve a notice on the owner of any land or building thereby affected requiring him to give up possession thereof within a period to be specified in the notice, not being less than sixty days from the date of such service :

Nigeria Town and Country Planning

Provided that such period shall not expire earlier than the period appointed in the scheme for the determination of leases and rights of occupancy in respect of such land or building.

(2) A duplicate of such notice shall be served on the occupier or occupiers of such land or building.

(3) Every owner or occupier so served shall comply with the terms of the notice.

(4) Any such owner or occupier who fails to comply with the terms of such notice may be summarily evicted by any member of a police force upon a written request signed by the chairman and addressed to the officer in charge of the police in the area in question.

37. (1) If for sixty days after the service of a notice under section 35 (4) no objection to the offer made in such notice shall have been lodged with the Authority the amount specified in such offer shall be paid forthwith to the owner in full discharge of any claim for compensation. Payment of compensation if no objection to offer under section 35 (4).

(2) If an objection is lodged within the prescribed time any question as to the amount of the compensation payable in respect of the land acquired and any question as to the apportionment of such compensation among the persons having an interest in the land shall, in default of agreement, be determined by the court as hereinafter mentioned.

38. (1) Any person interested in a matter that may be referred to the court for determination under this Ordinance may by written application to the Authority require that the matter be so referred, and on receipt of such application the Authority shall forthwith refer such matter as required. Reference of certain matters to court.

(2) Every such application shall be made within sixty days after the Authority shall have made known in writing to the person interested its final decision, and shall state the grounds on which it is based.

PART VI

COMPENSATION AND BETTERMENT

Compensation

39. (1) Subject to the provisions of this Ordinance, any person—

(a) whose property within the area to which the scheme applies is injuriously affected by the coming into operation Provisions to compensation for injurious affection.

Nigeria Town and Country Planning

of any provision contained in a scheme or by the execution of any work under a scheme ; or

- (b) who for the purpose of complying with any provision contained in a scheme or in making or resisting a claim under the provisions of this Ordinance relating to compensation and betterment, has incurred expenditure which is rendered abortive by a subsequent revocation or modification of the scheme ; or
- (c) who suffers damage by reason of any action taken by the Authority under section 29, subject to the provisions of sub-section (3) of section 41,

shall, if he makes a claim within the time limited for the purpose by this Ordinance, be entitled to recover as compensation from the Authority the amount by which his property is decreased in value or, so far as it was reasonably incurred, the amount of the abortive expenditure, as the case may be.

(2) In awarding any compensation payable in respect of property injuriously affected by the coming into operation of any provision contained in a scheme, account shall not be taken of any additional injurious affection of the property by reason that since the commencement of this Ordinance the Governor in Council has refused, on an appeal made to him under an interim development order, to grant an application for permission to develop the property, or that the Governor in Council has imposed any conditions on the grant of such an application made since that date.

No compensation in certain classes of cases.

40. (1) No compensation shall be payable in respect of the prohibition imposed by sub-section (1) of section 11 upon development of land or construction, demolition, alteration, extension, repair or renewal of buildings.

(2) No compensation shall be payable in respect of any building the erection of which was begun after the date of the publication of the order declaring a planning area under section 10 unless such erection was begun under and erected in accordance with the permission of the Authority.

(3) No compensation shall be payable in respect of any condition imposed by the Authority in respect of permission granted under sub-section (2) of section 11 to develop land or to construct, demolish, alter, extend, repair or renew buildings.

Nigeria Town and Country Planning

(4) No compensation shall be payable in respect of any of the following provisions of a scheme, namely any provision which :—

- (a) prescribes the space about buildings ;
- (b) limits the number of buildings or the number of buildings of a specified class which may be constructed, erected or made in or under any area ;
- (c) imposes any sanitary conditions in connexion with buildings ;
- (d) restricts the purposes for and the manner in which land or buildings may be used or occupied, or reserves or allocates any particular land or all land in any particular area for buildings of a specified class or classes or to be used for a special purpose ;
- (e) regulates or empowers the Authority to regulate the size and height of buildings ;
- (f) prohibits or restricts building operations only pending the coming into operation of a general development order ;
- (g) prohibits or restricts building operations permanently on the ground that by reason of the situation or nature of the land the erection of buildings thereon would be likely to involve danger or injury to health or excessive expenditure of public money in the provision of roads, sewers, water supply or other public services ;
- (h) prohibits otherwise than by way of prohibition of building operations the use of land for a purpose likely to involve danger or injury to health, or detriment to the neighbourhood or restricts otherwise than by way of restriction of building operations the use of land so far as may be necessary for preventing such danger, injury or detriment ;
- (i) in the interests of safety regulates, or empowers the Authority to regulate, the height and position of proposed walls, fences or hedges near the corners or bends of roads or at railway level crossings ;
- (j) limits the number or prescribes the sites of new roads entering a road or the site of a proposed road ;
- (k) fixes in relation to any road or intended road a line beyond which no building in that road or intended road may project unless, within a period of two years immediately

Nigeria Town and Country Planning

preceding the publication of an order under section 10 declaring the planning area within which the scheme lies, the land was or formed the site of a building ;

- (l) in the case of the erection of any building intended to be used for purposes of business or industry, requires the provision of accommodation for parking, loading, unloading or fuelling vehicles, with a view to preventing obstruction of traffic on any road ;
 - (m) prohibits, restricts or controls, either generally or in particular places, the exhibition, whether on the ground, on any building or any temporary erection, or on any vehicle, boat, aircraft or other movable object whether on land or on or in water or in the air, of all or any particular forms of advertisements or other public notices ; or
 - (n) prevents, remedies or removes injury to amenities arising from the ruinous or neglected condition of any building or by the objectionable or neglected condition of any land attached to a building or abutting on a road or situate in a residential area.
- (5) Nothing contained in sub-section (4) shall preclude an owner from claiming compensation for loss or injury arising from—
- (a) being prevented by the operation of a scheme from maintaining a building which was in existence on the date of the publication of an order declaring a planning area under section 10 or from continuing to use any such building for the purpose for which it was used on such date ; or
 - (b) where a permanent building which was in existence at any time within two years immediately before the date of the publication of an order declaring a planning area under section 10 has been demolished or been destroyed by fire or when the owner is otherwise prevented by the operation of a final scheme from erecting on the site of such demolished or destroyed building a new building which substantially replaces such demolished or destroyed building or from using such new building for the purpose for which such demolished or destroyed building was last used.

*Section 10
of the
Town and
Country
Planning
Act*

(6) In any case not otherwise expressly provided for in this section the Authority may pay reasonable compensation to

Nigeria Town and Country Planning

any person who sustains damage by reason of the exercise of any of the powers vested by this Ordinance, or any regulation made or scheme sanctioned thereunder, in the Authority, or in the chairman, or where the Authority is a native authority in the corresponding offices of that native authority, or in any officer or servant of the Authority.

41. (1) Where any provision of a scheme is revoked or modified by a later scheme, no compensation shall be payable in respect of any property on the ground that it has been injuriously affected by any provision contained in the later scheme if and in so far as that later provision is the same, or substantially the same, as the earlier provisions so revoked or modified; but if at the date when the revocation or modification of that earlier provision becomes operative—

Exclusion or limitation of compensation in certain other cases.

- (a) there is still outstanding any claim for compensation duly made thereunder; or
- (b) the time originally limited for making such a claim has not expired,

any such outstanding claim and any such claim made within the time so limited shall be entertained and determined, and may be enforced, in the same manner in all respects as if all the provisions of the earlier scheme had continued in operation, unless the claim is in respect of a restriction removed by the later scheme.

(2) No compensation shall be payable under this Ordinance in respect of any property on the ground that it has been injuriously affected by any provision contained in a scheme, if and in as far as the same provision or a provision substantially to the same effect was, at the date the scheme came into operation, already in force by virtue of some other written law.

(3) A person shall not be entitled to recover compensation under this Ordinance in respect of any action taken by the Authority under section 29 except in a case where a building or work which the Authority has removed, pulled down or altered, was an existing building or an existing work or where a use of a building or land which it has prohibited was an existing use.

(4) For the purposes of this section an "existing building" shall include a building erected, constructed or carried out in accordance with the terms of an interim development order and

"existing building".

Nigeria Town and Country Planning

an "existing use" includes any use of a building or land permitted by or under an interim development order.

Date on which compensation is calculated.

42. When an area has been declared a planning area under the provisions of section 10, the value of any building or land in such area shall, for the purposes of determining the amount of compensation or betterment payable under the provisions of this Ordinance, be deemed to be the value of the building or land on the day twelve months immediately prior to such declaration.

Making of claims for compensation.

43. (1) A claim for compensation shall be made by serving upon the Authority a notice in writing stating the grounds of the claim and the amount claimed.

(2) Subject to the provisions of sub-section (3) no claim for compensation shall be entertained unless such written notice has been served on the Authority within twelve months after the date on which the provision giving rise to the claim came into operation or within such longer period as may be specified in the scheme or, in respect of expenditure rendered abortive by the revocation or modification of a scheme within twelve months after the date on which the revocation or modification of the scheme became operative.

(3) Where it is alleged that property has been injuriously affected by the execution of any work, the period within which a claim in respect of that injurious affection may be made shall be a period of three years after completion of the work.

Betterment

Recovery of betterment from owners of property increased in value.

44. (1) Where by the coming into operation of any provision contained in a scheme, or by the execution of any work under a scheme, any property within the area to which the scheme applies is increased in value, the Authority, if it makes a claim for the purpose within three years after the date on which the provision came into operation, or within three years after the completion of the work, as the case may be, shall be entitled to recover from any person whose property is so increased in value an amount not exceeding seventy-five *per centum* of the amount of that increase.

(2) A claim in respect of an increase in the value of any property shall be made by serving upon the person from whom the amount alleged to be payable is claimed a notice in writing stating the grounds of the claim and the amount claimed.

Nigeria Town and Country Planning

(3) Any sum recoverable under this section may be set off against any claim to compensation.

(4) Where any provision of a scheme is revoked or modified by a later scheme, no property shall be deemed to be increased if and in so far as that provision is the same, or substantially the same, as a provision contained in the scheme so revoked or modified :

Provided that, if at the date when the revocation or modification of such scheme becomes operative, there is still outstanding any claim in respect of an increase in the value of any property duly made thereunder, or the time originally limited for making such a claim has not expired, any such outstanding claim, and any such claim made within the time so limited, shall be entertained and determined and may be enforced in the like manner in all respects as if all the provisions of the earlier scheme had continued in operation.

PART VII

Legal Procedure

45. (1) Any dispute under this Ordinance as to—

- (a) the right of a claimant to recover compensation,
- (b) the right of the Authority to recover betterment, or
- (c) the amount and manner of payment of any such recoverable compensation or betterment,

shall, upon the application of any party concerned, be heard and determined by a court in the manner hereinafter provided.

(2) Any dispute referred to the court under the provisions of sub-section (1) shall be by way of a suit by or against the Authority.

46. (1) All matters which by or under this Ordinance may be referred to a court for determination may at the option of the Authority concerned and if the Authority is a native authority then with the approval of the Governor be determined either by the Supreme Court or by a native court upon which courts necessary jurisdiction is hereby conferred.

(2) When a matter is referred to the Supreme Court for determination it shall be determined by a judge and the proceedings therein shall be as hereinafter provided.

(3) When a matter is referred to a native court the steps to be taken for the appearance of the parties and the proceedings in

Determination of claims and recovery of amounts due.

Concurrent jurisdiction of Supreme Court and native courts.

Nigeria Town and Country Planning

court shall be the same as if it were a suit for determination by that court between two persons normally subject to the jurisdiction of that native court.

Reference to court for decision in any matter affecting a scheme.

47. In addition to the matters specifically provided for under this Ordinance as being matters for determination by a court the chairman of the Authority may submit for determination by a court any other matter relating to a scheme.

Appearance of parties in court.

48. (1) Upon the hearing of any matter before a court the Authority may appear by one of its officers or by a person specially appointed for that purpose by the Authority or when in the Supreme Court or a magistrate's court, by a legal practitioner.

(2) Proceedings for offences against any of the provisions of this Ordinance shall be instituted by the chairman of the Authority concerned or where the Authority is a native authority, then in the manner in which such proceedings may lawfully be instituted by the native authority concerned, and the Authority may appear by one of its officers or by a person specially appointed by the Authority for the purpose or when in the Supreme Court or in a magistrate's court, by a legal practitioner.

Form of summons in Supreme Court and procedure thereon.
Second Schedule.

49. (1) All matters referred by an Authority to the Supreme Court for determination shall be heard and determined by the court—

- (a) if the Authority is other than a native authority, upon an originating summons in the form in the Second Schedule taken out by the chairman of the Authority, and
- (b) if the Authority is a native authority, then in the manner provided in Part VII of the Native Authority Ordinance.

Cap. 140.

(2) The court shall hear and determine all matters herein as if the proceedings had been commenced in the ordinary way by a civil summons issued under the Supreme Court Ordinance, and the rules thereunder which shall govern all matters or procedure.

Cap. 211.

Notice of hearing in the Supreme Court.

50. Summonses in the Supreme Court shall be served upon every party in the manner provided by section 58 not less than seven days before the time appointed for hearing.

Procedure when party fails to appear on summons in

51. Where in answer to a summons issued out of the Supreme Court a party shall not appear at the time appointed for the hearing, a decision by the court may be given *ex parte* upon

Nigeria Town and Country Planning

hearing the evidence adduced on the part of the Authority and of the parties and such decision shall be as effectual as if given after hearing and in the presence of all parties. the Supreme Court.

52. (1) No act done or proceeding taken under this Ordinance shall be questioned on the ground merely of— Validation of acts and proceedings.

(a) the existence of any vacancy in, or any defect in the constitution of, the Authority; or

(b) any omission, defect or irregularity not affecting the merits of the case.

(2) Every meeting of the Authority, the minutes of the proceedings of which have been duly signed, shall be taken to have been convened and to be free from all defect and irregularity.

53. The chairman with the approval of the Authority or where the Authority is a native authority the appropriate officer of that authority may— Legal proceedings.

(a) institute any legal proceedings on behalf of the Authority and may withdraw from the same;

(b) defend any legal proceedings brought against the Authority;

(c) compound any offence against this Ordinance; and

(d) compromise any claim made by or against the Authority, and the Authority may appear in the manner provided in section 48 (2).

54. No matter or thing done and no contract entered into by the Authority, and no matter or thing done by any member or by any servant of the Authority or other person acting under the direction of the Authority shall, if the matter or thing was done or the contract was entered into *bona fide* for the purpose of carrying out the provisions of this Ordinance, subject the members or any of them or any such servant or other person personally to any action, liability or claim whatsoever. Protection of members and servants of the Authority.

55. No suit shall be instituted against the Authority or any member or any servant of the Authority or any person acting under the direction of the Authority in respect of any act purporting to be done or any neglect of duty under this Ordinance until the expiration of one month next after a written notice has been delivered at the office of the Authority or at the place of abode of such member, servant or other person stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims. Notice of action against the Authority.

Nigeria Town and Country Planning

Evidence of Authority's approval.

56. Whenever under the provisions of this Ordinance the power or right to do any act, or the validity of any act, depends upon the approval or consent of the Authority or the chairman, a document signed by the chairman purporting to express such approval or consent, or where the Authority is a native authority, by the appropriate officer of that authority shall be sufficient evidence thereof.

Signing of notices.

57. (1) Every notice required or authorised by this Ordinance or by any regulation made thereunder to be served or given by or on behalf of the Authority shall be signed by the chairman, or where the authority is a native authority, by the appropriate officer of that authority.

(2) Any such notice shall be deemed to have been duly signed if it purports to bear the signature of the chairman, or where the Authority is a native authority by such other person as aforesaid.

Service of notices and documents.

58. (1) Every notice, order or other document required or authorised by this Ordinance or by any regulations made thereunder to be served on any person may be served—

(a) by delivering the same to such person or by delivering the same at the abode where such person ordinarily resides to some adult member or servant of his family ; or

(b) if the abode where such person ordinarily resides is not known, by forwarding the same by registered post addressed to such person at his last known place of abode or business ; or

(c) if the name of such person is not known, or if service cannot with reasonable diligence be effected under clause (a) or (b) of this sub-section, by fixing the same on a conspicuous part of the premises in respect of which the notice, order or other document is issued.

(2) (a) Service upon an Authority, not being a native authority, shall be effected by delivering the same to or by sending it by registered post addressed to the chairman of the Authority concerned ; and

(b) Service upon an Authority shall be effected by delivering the document to or by sending it by registered post to an officer of the native authority at the principal office of the native authority :

Provided that a court may, having regard to any particular

Nigeria Town and Country Planning

circumstances, order service on an Authority being a native authority to be effected otherwise and in that case service shall be effected in accordance with the terms of that order.

(3) A notice, order or other document required or authorised by this Ordinance or any regulations made thereunder to be served on the owner or occupier of any premises shall be deemed to be properly addressed if addressed by the description of the "owner" or "occupier" of such premises without further name or description.

PART VIII

FINANCIAL MATTERS

Control of Finance

59. (1) An Authority shall be and hereby is empowered to accept any rates, money, property or other assistance for the furtherance of any of the objects of a scheme.

Authority
may accept
property or
other
assistance.

(2) All moneys from whatever sources received by the Authority shall become part of the funds of the Authority.

60. (1) The Governor in Council may direct that any particular Authority shall regulate, control and manage its own finances and in default of any such direction all sums received to the credit of an Authority shall be paid into the general revenues of Nigeria and all expenses and disbursements lawfully incurred or to be paid by an Authority shall be defrayed from the general revenue of Nigeria and only such of the provisions of this Part as the Governor in Council may direct shall apply to such Authorities.

Regulation
of finances.

(2) Where the Governor in Council directs that any particular Authority shall regulate, hold and manage its own finances the provisions of this Part shall apply and the Authority shall thereafter regulate, manage or control its finances in accordance with such provisions but the Governor in Council may, in giving any such direction, further direct that all or any of the provisions of this Part be added to, modified, adapted or otherwise varied in respect of the Authority concerned and when such further direction is given the provisions of this Part shall be construed and read together with such further directions in relation to the particular Authority concerned and where any of such further directions are in conflict with the provisions of this Part, the provisions of such further directions shall prevail.

Nigeria Town and Country Planning

(3) Where the Governor in Council has given a direction under sub-section (1) or further directions under sub-section (2) he may from time to time, in his discretion, revoke, add to, modify or otherwise vary any such direction or further directions.

Rating

An Authority may order rates to be imposed or itself impose rates.

61. (1) An Authority, with the approval of the Governor in Council, in exercise of its powers and duties under the provisions of this Ordinance and to raise revenue for planning purposes may, by order require a local authority, a native authority or any other authority to impose, levy and collect rates, hereinafter referred to as planning rates, either in accordance with and subject to regulations made by the Authority or in accordance with and subject to the directions set out in the order so made by the Authority.

(2) Such order—

- (a) shall prescribe the amount of the planning rate to be levied either generally throughout the area or in respect of any part thereof;
- (b) may exempt from a planning rate any premises or class of premises;
- (c) shall determine the date on which the first payment of such rate shall become due.

(3) The local authority, native authority or any other authority so ordered to impose, levy and collect a planning rate shall accordingly so do and shall pay over the proceeds of the rate to the Authority concerned.

(4) Any local authority, native authority or any other authority which is not empowered under the provisions of any other written law to impose, levy and collect rates is hereby empowered to impose, levy and collect the planning rate in accordance with the provisions of this Ordinance.

(5) An Authority, instead of acting under the provisions of the preceding sub-sections, is hereby empowered, with the approval of the Governor in Council, to impose, levy and collect the planning rate itself and such rate shall be imposed, levied and collected in the manner specified by the Authority.

The rate to be paid quarterly.

62. The planning rate, unless otherwise provided by the Authority by regulation or by the order requiring the imposition, levy and collection of the rate, shall be paid in advance at a place

Nigeria Town and Country Planning

to be specified in the regulations or order or otherwise by the Authority by annual or half-yearly or quarterly instalments.

63. (1) The following persons shall be liable for the payment of the planning rate:— Liability for and recovery of rates.

- (a) in respect of all land or premises to which the Land and Native Rights Ordinance applies, the occupier of the land or premises, not exempt from the planning rate; and Cap. 105
- (b) in all other cases the owner and occupier of land or premises not exempt from the planning rate, but the same shall be deemed to be an owner's rate and, as between the occupier and the owner of any premises shall, in the absence of any agreement to the contrary, be borne by the owner; and the amount thereof, if paid by the occupier, may be recovered by him from the owner in an action for money paid to his use, or may be deducted from any rent due or to become due in respect of the premises.

(2) If any person fails to pay any planning rate for which he is liable within one month after the same became payable the authority levying the rate under sub-section (2) of section 61 or the Authority so levying under sub-section (5) of section 61 may recover the same by suit with costs and interest at the rate of six *per centum* from the day when such rate ought to have been paid until the day of payment.

64. An Authority levying the planning rate under sub-section (2) of section 61 shall on the first day of the months of January, April, July and October in every year pay to the Authority the planning rate levied and collected as hereinbefore mentioned in respect of the quarter immediately preceding such date and such planning rate paid as aforesaid shall form part of the funds of the Authority. Payment of moneys and deposit in bank.

Estimates

65. (1) An Authority shall in every year prepare estimates containing— Estimates.

- (a) an estimate of the revenue of the Authority for the next ensuing year;
- (b) an estimate of all balances, exclusive of moneys raised by loan, which will be available for ordinary expenditure at the commencement of the next ensuing year;

Nigeria Town and Country Planning

- (c) an estimate of ordinary expenditure for the next ensuing year ;
- (d) an estimate of the balances of loans available and the expenditure therefrom during the next ensuing year ; and
- (e) an estimate of sums that will be required during the next ensuing year for the discharge of principal, the payment of interest and for contribution to sinking funds in respect of loans.

(2) The financial year shall commence on the 1st day of April in any year and the estimates mentioned in sub-section (1) shall be forwarded for approval to the Governor on or before the 1st day of December in any year.

(3) On consideration of the estimates so submitted the Governor may—

- (a) approve or disapprove such estimates as a whole ; or
- (b) disapprove of any item or items contained therein, and shall notify the Authority accordingly.

(4) Where the Governor approves the estimate as a whole the Authority forthwith may incur the expenditure, collect the revenue, and generally put into operation the provisions of the approved estimates but where the estimates are disapproved as a whole no expenditure shall be incurred, no revenue collected nor shall any of the general provisions of the estimates be put into operation without the prior approval of the Governor.

(5) Where the Governor disapproves of any item or items in estimates submitted for approval the remainder of any such estimates excluding such item or items so disapproved shall be deemed to be an approved estimate but the Authority shall not incur any expenditure or collect revenue as the case may be in respect of the item or items disapproved.

(6) Where the Governor has disapproved of estimates as a whole or has disapproved of any item or items in an estimate and subsequently approves such estimates or such item or items or subsequently approves amended or varied estimates or an amended or varied item or items then such estimates or such item or items shall be deemed to be and to have been approved item or items or approved estimates from the beginning of the financial year to which such estimates or item or items relate.

Nigeria Town and Country Planning

66. (1) An Authority may at any time prepare supplemental estimates to provide for unforeseen or urgently required expenditure containing— Supplemental estimates.

- (a) a revised estimate of the revenue for the current year ;
- (b) a revised estimate of the expenditure for the current year ;
- (c) a statement showing how provision is therein made to meet additional expenditure.

(2) Such supplemental estimates shall be forwarded without delay to the Governor and the provisions of sub-sections (3), (4), (5) and (6) of section 65 shall apply to such supplemental estimates as if they were the annual estimates.

Accounts

67. (1) An Authority shall keep accounts of the transactions of the Authority to the satisfaction of the Governor. Accounts and audit.

(2) The accounts of any Authority shall be audited in every year either by the Audit Department of Government or by a person approved by the Governor.

68. An Authority may, with the approval of the Governor write off bad debts. Bad debts.

Contributions to General Revenue

69. In addition to and not in derogation of the other powers in this Part conferred upon the Governor in Council, where an Authority is regulating, controlling and managing its own finances under the provisions of section 60 the Governor in Council may from time to time order that any such Authority shall pay into the general revenue or other funds of Nigeria all or any part of its revenue or funds and thereupon the Authority so ordered shall pay such sum into the general revenue or other funds of Nigeria and the Authority shall lose all right, title and interest in such sums which shall thereupon form part of the general revenue or other funds of Nigeria. Governor in Council may direct an Authority to pay funds into general revenue.

General

70. (1) An Authority may from time to time borrow at such rate of interest and for such period and upon such terms as to the time and method of repayment and security for the repayment and otherwise as may be from time to time approved by the Governor in Council. Power of borrowing.

Nigeria Town and Country Planning

(2) Any such approval may be general in respect of all or any Authorities or any class of Authority or may be specific in respect of any specified Authority or any separate transaction.

Power to buy and sell.

71. An Authority may buy and sell or may let, hire, lease, exchange or otherwise dispose of any property of whatever description whether movable or immovable for the purposes of its powers and duties under the provisions of this Ordinance.

(Amended by No. 29 of 1946.)

Power to accept debentures and mortgages.

72. An Authority may accept debentures and enter into mortgages by way of security for moneys owing to the Authority.

Bank account.

73. (1) Subject to the provisions of this Part all moneys paid to an Authority shall forthwith be paid into such bank or banks as may from time to time be approved by the Governor or by direction of the Governor be paid, in a similar manner, into any local treasury, native treasury or other suitable depository.

(2) All orders or cheques against the said account shall be signed by the chairman and, where there is a secretary to an Authority, the secretary or by such other officer or person as may be approved by the Governor.

Investments.

74. Subject to the provisions of this Part money standing to the credit of an Authority may from time to time be invested in securities approved by the Financial Secretary and an Authority may from time to time, with the like approval, sell any or all of such securities.

PART XI

MISCELLANEOUS

Rehousing Scheme

Rehousing of displaced persons.

75. (1) In addition to and not in derogation of an Authority's powers to frame schemes under this Ordinance an Authority in framing a scheme or in addition to framing a scheme under the provisions of this Ordinance may frame schemes for the construction, maintenance and management of such and so many dwellings and shops as it may consider ought to be provided for persons of the poorer and labouring classes who—

(a) are displaced by the execution of the provisions of any scheme sanctioned under this Ordinance; or

Nigeria Town and Country Planning

(b) are likely to be displaced by the execution of the provisions of any scheme which it is intended to frame, or submit to the Governor in Council for approval under this Ordinance.

(2) Every rehousing scheme shall be submitted to the Governor in Council who may either sanction it, with or without modification, or refuse to sanction it.

(3) The Authority shall not itself construct dwellings or shops under a rehousing scheme unless it is satisfied, after due inquiry, that no other person is willing and able to construct them and is prepared to construct, maintain and manage them under the control of the Authority.

Redistribution of Holdings

76. A redistribution of holdings comprised in any scheme shall be effected in the following manner, namely by:—

Redistribution of holdings.

(a) the amalgamation for the purpose of the redistribution of all holdings, whether belonging to private owners or to public bodies, and of all Crown land, and land subject to the Land and Native Rights Ordinance together with all roads, streets, backlanes and open spaces public or private, within the scheme area;

Cap. 105.

(b) the allotment of an area in respect of roads, streets, backlanes and open spaces;

(c) the assignment, so far as is practicable, to as many original owners as is possible, having regard to the provisions of the scheme, of one or more final holdings, equivalent or proportionate in extent and value, or both combined, to their respective original holdings;

(d) the preservation as far as possible to each owner of such special advantages in the way of position, frontage or otherwise as were attached to his original holding;

(e) the extinction of any existing easement and the provision of any new easement necessary for the enjoyment of any final holding assigned to any owner under the scheme;

(f) the payment of any compensation to individual owners for any special disadvantage in the final holdings assigned to them under the scheme and the payment of approximately equivalent amounts by individual owners in respect of any special advantage in the final holdings assigned to them under the scheme and the disposal of the sums so paid.

Nigeria Town and Country Planning

Redistribution scheme and surrendering of holdings.

77. (1) Upon the notification of approval of a scheme which includes a redistribution of holdings or upon such a date as may be declared in the scheme in that behalf the whole of the area subject to redistribution shall vest in the Authority free from incumbrances and every estate or interest in the land comprised in such area shall be extinguished :

Cap. 105.

Provided that in the case of Crown lands and lands subject to the Land and Native Rights Ordinance the Authority shall hold all such lands as the agent of the Governor and subject to his directions.

(2) The Authority shall make in favour of each person entitled by the scheme to a final holding a fresh grant of the area comprised in such holding. Every such grant shall be made so far as is practicable on the terms and subject to the conditions on which the person to whom it is made held his original holding.

(3) Every person entitled on the date prescribed in sub-section (1) to any estate or interest in an original holding shall be deemed to have acquired a corresponding estate or interest in the final holding substituted therefor by the scheme.

Vesting of certain statutory powers in the Authority

Transfer to the Authority of powers of local authority or Director of Public Works.

78. (1) The Authority may, at any time after the publication in the Gazette of a declaration by the Governor in Council that an area is a planning area declare, by notice in the Gazette, its intention of framing and carrying out a scheme with respect to such area or a part thereof or with respect to any street in such area and upon the scheme being approved the powers and duties exercisable and devolving upon a local authority or other authority or the Director of Public Works in such area or part thereof by virtue of any written law or otherwise shall be transferred to and be vested in the Authority.

(2) Notwithstanding anything contained in sub-section (1) the Authority if it considers that the local authority, other authority or the Director of Public Works should continue in the exercise of any powers or duties transferred or vested in the Authority under sub-section (1), may, with the approval of the Governor in Council, call upon the local authority, other authority or the Director of Public Works, as the case may be, to continue such exercise accordingly.

(3) A local authority or other authority shall from time to time furnish the Authority with such particulars and information

Nigeria Town and Country Planning

as the Authority for the due execution of the provisions of this Ordinance may require relating to the needs of any area and in particular but without derogating from the generality of the foregoing power with regard to the provision of new streets and open spaces, the widening or alteration of existing streets, and the probable direction and nature of the development of the area.

Authorities may require others to execute parts of schemes

79. (1) Provisions may be inserted in a scheme stating who is the responsible authority for executing each portion of the scheme and in what manner the cost of the same shall be met. Scheme may state who is to execute portion of it.

(2) Upon the approval of the scheme, the duty of carrying out the portions of the scheme as and when required by the Authority shall devolve upon such responsible authorities as aforesaid.

(3) Provision may be made in any scheme for the execution thereof, wholly or in part, by the owner or owners of the land or premises comprised in the scheme area, subject to the control of the responsible authority or of the Authority and upon such terms and conditions as may be specified by the Authority.

Offences

80. If any person unlawfully—

General offences.

- (a) obstructs or molests any member of the Authority or any officer or servant of the Authority, or any person with whom the chairman or appropriate officer of an Authority has entered into a contract on behalf of the Authority in the performance or execution by such member, officer, servant or person as the case may be of his duty or of anything which he is empowered or required to do by virtue or in consequence of this Ordinance or any regulation or scheme made thereunder; or
- (b) removes any mark set up for the purpose of indicating any level or direction necessary for the execution of works authorised by this Ordinance or any regulation made or scheme sanctioned thereunder; or
- (c) removes any notice fixed by the Authority on any premises, he shall be liable on conviction to a fine of fifty pounds or to imprisonment for six months or to both such fine and imprisonment.

Contra-
vention of
regulations.

81. Any person who—

- (a) acts in contravention of any regulation made under the provisions of this Ordinance; or
- (b) being legally bound to comply with any lawful order or with the requisition contained in any notice served under this Ordinance or any regulation made thereunder refuses or neglects to comply therewith,

shall be deemed guilty of an offence and liable on conviction to a fine of fifty pounds or to imprisonment for six months or to both such fine and imprisonment.

Compensation to be paid by offenders for damage caused by them.

82. (1) If on account of any act or omission any person has been convicted of an offence against this Ordinance or any regulation made thereunder and, by reason of the same act or omission of the said person, damage has occurred to any property of the Authority, compensation shall be paid by the said person for the said damage, notwithstanding any punishment to which he may have been sentenced for the said offence.

(2) In the event of dispute, the amount of compensation payable by the said person shall be determined by the court before which he was convicted of the said offence.

(3) If the amount of any compensation due under this section be not paid, the same shall be recovered under a warrant from the said court as if it were a fine inflicted by the court on the person liable therefor.

Regulations

Regulations by the Governor in Council.

83. (1) The Governor in Council may make regulations with respect to—

- (a) the determination and adjustments of the limits of plots or estates within planning areas;
- (b) the furtherance of the provisions and purposes of schemes or of any particular scheme;
- (c) any other matter which under this Ordinance is required or permitted to be prescribed.

(2) Regulations made under sub-section (1) may be either general or specific or refer to one or more schemes, and upon publication in the Gazette shall have the same force and effect as if they had been enacted herein.

Regulations by an Authority.

84. An Authority may make regulations with regard to—

- (a) the imposition, levy or collection of the planning rate,

Nigeria Town and Country Planning

- (b) the exemption of certain land or premises or classes of land or premises from the planning rate, and
 (c) the date upon which the planning rate shall become due.

The Lagos Town Planning Ordinance

85. (1) Where an Authority is appointed and a scheme approved under this Ordinance in respect of an area to which the provisions of the Lagos Town Planning Ordinance apply, that Ordinance shall thereupon be deemed to be repealed in respect of the area concerned save that the provisions of that Ordinance shall continue to apply to any scheme approved under that Ordinance and not completed unless the area or any part thereof of such scheme approved under that Ordinance comes within the area of a scheme approved under the provisions of this Ordinance.

Effect of this Ordinance upon Chapter 103.

(2) Where under the provisions of sub-section (1) an area formerly within a scheme approved under the Lagos Town Planning Ordinance comes within a scheme approved under this Ordinance the Governor in Council shall give directions as to the adjustment of finances between the Board established under the Lagos Town Planning Ordinance and the Authority concerned, and any such directions shall, notwithstanding the provisions of the Lagos Town Planning Ordinance be a valid authority for the receipt or payment of moneys by such Board.

FIRST SCHEDULE

Section 13.

PART I

Roads

1. Providing for the reservation of land for roads, the construction of new roads, improvement of existing roads, establishment of public rights of way.
2. Providing for the closing or diversion of existing roads and public and private rights of way.
3. Restricting and controlling the construction of new roads and the alteration of existing roads whether by the Authority or owners.
4. Regulating the line, width, level, construction and general dimensions and character of roads whether new or existing.
5. Enabling the Authority to require an owner of land as a condition of his developing such land in any manner—
 - (a) to reserve land for such roads as the Authority may think necessary,
 - (b) to contribute to the cost of the construction of new roads or the improvement of existing roads by the Authority.

*Nigeria Town and Country Planning*FIRST SCHEDULE—PART I—*continued*

6. Providing for and generally regulating the construction or execution whether by the Authority or by owners of works incidental to the making or improvement of any road including the erection of shelters, provision of seats, planting or protecting of grass, trees and shrubs on or adjoining such road.

PART II

Buildings and other Structures

1. Regulating and controlling, either generally or in particular areas, all or any of the following matters :—

- (a) the size, height, spacing and building line of buildings ;
- (b) the objects which may be affixed to buildings ;
- (c) the location of buildings, the extent of yards, gardens and curtilage of buildings ;
- (d) the purposes for and the manner in which buildings may be used or occupied including, in the case of dwelling-houses, the letting thereof in separate tenements ;
- (e) the prohibition of building operations on any land or regulating such operations.

2. Reserving or allocating any particular land or all land in any particular area for buildings of a specified class or classes, or prohibiting or restricting, either permanently or temporarily, the making of any buildings or any particular class or classes of buildings on any specified land.

3. Reserving or allocating any particular land or all land in any particular area for the purpose of any industrial or trade purpose or for any specified undertaking.

4. Limiting the number of buildings or the number of buildings of a specified class which may be constructed, erected or made on, in or under any area.

5. Providing for the removal, demolition or alteration of buildings or works which are inconsistent with or obstruct the operation of a scheme.

6. Providing for the reservation of sites for places of religious worship, schools and public buildings and for places required for public services.

7. Providing for sanitary conditions.

8. Providing for the reservation of sites for housing schemes.

9. Providing for slum clearance in specified areas.

PART III

Amenities

1. Providing for the reservation of lands as open spaces, whether public or private, and for burial grounds.

2. Providing for the reservation of views and prospects and of the amenities of places and features of natural beauty or interest.

*Nigeria Town and Country Planning*FIRST SCHEDULE—PART III—*continued*

3. Providing for the preservation of buildings and objects of artistic, architectural, archaeological or historical interest.
4. Providing for the preservation or protection of forests, woods, trees, shrubs, plants and flowers.
5. Prohibiting, restricting or controlling, either generally or in particular places, the exhibition, whether on the ground, on any building or any temporary erection, on any vehicle, boat, aircraft or other movable object, whether on land, or in or on water or in the air, of all or any particular forms of advertisement or other public notices.
6. Preventing, remedying or removing injury to amenities arising from the ruinous or neglected condition of any building or fence, or by the objectionable or neglected condition of any land attached to a building or fence or abutting on a road or situate in a residential area.
7. The prohibition, regulation and control of the deposit or disposal of waste materials and refuse.

PART IV

Public Utility Services

Facilitating the construction of works in relation to lighting, water supply, sewerage, drainage, sewage disposal and refuse disposal or other public utility services.

PART V

Transport and Communication

1. Facilitating the establishment, extension or improvement of systems of transport whether by land, water or air.
2. Allocating sites for use in relation to transport and providing for the reservation of land for that purpose.
3. Providing for the establishment, extension and improvement of telegraphic, telephonic or wireless communication, allocating sites for use in relation to such communication and providing for the reservation of land for that purpose.

PART VI

Miscellaneous

1. Declaring the persons by whom and the manner in which the cost of the execution of works (whether of construction, demolition, removal or alteration) in pursuance of the scheme are to be borne.
2. Subject to the provisions of this Ordinance, declaring the notices to be served for the purposes of the scheme by the Authority and the persons on whom, the manner in which and the times at or within which such notices are to be served.
3. Subject to the provisions of this Ordinance, declaring the manner in which and the times at or within which notice for the purposes of the scheme may be served on the Authority by other persons.
4. Providing for and regulating the making of agreements for the purpose of a scheme by the Authority with owners and other persons and by such persons with one another.

*Nigeria Town and Country Planning*FIRST SCHEDULE—PART VI—*continued*

5. Dealing with the use or disposal of land acquired under the provisions of this Ordinance.
6. Prohibiting the sub-division of land until a plan showing the sub-division and proposed access to the land has been approved together with an estate layout plan if called for by the Authority.
7. Making any provisions necessary for—
- adjusting and altering the boundaries and areas of any lands, roads or rights of way ;
 - effecting such exchanges of land or cancellation of existing sub-division as may be necessary or convenient for the purposes aforesaid.
8. Providing for and regulating the construction, alteration, removal and use of railways, pipe-lines, telegraph and telephone lines, electric current transmission lines, drainage or irrigation channels, aerial cable ways and their ancillary structures.
9. Preventing the pollution of streams, watercourses, rivers, wells, lagoons and harbours.
10. Works ancillary to or consequent on a scheme.
11. Any other matter, not hereinbefore mentioned, necessary or incidental to a scheme or its administration.

The mention of particular matters in this Schedule shall not be held to prejudice or affect the generality of any other matter.

Section 49.

SECOND SCHEDULE

Originating Summons

In the Supreme Court of Nigeria

Cap. 155.

In the Matter of the Town and Country Planning Ordinance.

Let all parties attend at.....on the.....day of....., 19...., at.....o'clock in thenoon on the hearing of an application on the part of the chairman (or other appropriate officer) of the..... Planning Authority for the determination of the following matters :—

If any person fails to comply with these instructions the court may order him to pay the costs of the proceedings.

DATED the.....day of....., 19.....

.....
(Signature of Chief Justice or Judge.)

This summons was taken out by the chairman (or other appropriate officer) of the..... Planning Authority.

To :—

(Insert names of all parties interested in questions to be decided.)

Assented to in His Majesty's name this 5th day of April, 1949.

J. S. MACPHERSON,
Governor.

(L.S.)

No. 12



1949

Colony and Protectorate of Nigeria

IN THE THIRTEENTH YEAR OF THE REIGN OF
HIS MAJESTY KING GEORGE VI
SIR JOHN STUART MACPHERSON, K.C.M.G.
Governor and Commander-in-Chief

AN ORDINANCE TO MAKE PROVISION FOR THE MARKETING AND EXPORT Title.
OF NIGERIAN OIL PALM PRODUCE AND FOR MATTERS CONNECTED
THEREWITH.

[] Date of
commence-
ment.

BE IT ENACTED by the Governor of Nigeria, with the Enactment.
advice and consent of the Legislative Council thereof, as follows:—

*Nigeria Town and Country Planning*FIRST SCHEDULE—PART VI—*continued*

5. Dealing with the use or disposal of land acquired under the provisions of this Ordinance.
 6. Prohibiting the sub-division of land until a plan showing the sub-division and proposed access to the land has been approved together with an estate layout plan if called for by the Authority.
 7. Making any provisions necessary for—
 - (a) adjusting and altering the boundaries and areas of any lands, roads or rights of way;
 - (b) effecting such exchanges of land or cancellation of existing sub-division as may be necessary or convenient for the purposes aforesaid.
 8. Providing for and regulating the construction, alteration, removal and use of railways, pipe-lines, telegraph and telephone lines, electric current transmission lines, drainage or irrigation channels, aerial cable ways and their ancillary structures.
 9. Preventing the pollution of streams, watercourses, rivers, wells, lagoons and harbours.
 10. Works ancillary to or consequent on a scheme.
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(Signature of Chief Justice or Judge.)

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To:—

(Insert names of all parties interested in questions to be decided.)

Assented to in His Majesty's name this 5th day of April, 1949.

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1949

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IN THE THIRTEENTH YEAR OF THE REIGN OF
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AN ORDINANCE TO MAKE PROVISION FOR THE MARKETING AND EXPORT Title.
OF NIGERIAN OIL PALM PRODUCE AND FOR MATTERS CONNECTED
THEREWITH.

[

]

Date of
commence-
ment.

BE IT ENACTED by the Governor of Nigeria, with the Enactment
advice and consent of the Legislative Council thereof, as follows:—

PART I
PRELIMINARY

Short title
and
commence-
ment.

1. This Ordinance may be cited as the Nigeria Oil Palm Produce Marketing Ordinance, 1949, and shall come into operation on a date to be fixed by the Governor by notice in the Gazette.

Interpreta-
tion.

2. (1) In this Ordinance, unless the context otherwise requires—

“ Eastern Region ” means the Eastern Provinces of Nigeria as defined in the Nigeria (Legislative Council) Order in Council, 1946;

“ export ” with its grammatical variations and cognate expressions means to take or cause to be taken out of Nigeria;

“ licensed buying agent ” means a buying agent in possession of a valid licence granted by the Marketing Board under section 17 for the purchase of produce subject to this Ordinance for sale to the Marketing Board;

“ the Marketing Board ” means the Nigeria Oil Palm Produce Marketing Board established under section 3;

“ Northern Region ” means the Northern Provinces of Nigeria as defined in the Nigeria (Legislative Council) Order in Council, 1946;

“ produce ” means the produce mentioned in the Schedule to this Ordinance and such other produce as may from time to time be added to the Schedule by order of the Governor in Council;

“ producer ” means a person engaged in the cultivation or collection or preparation of produce;

“ purchase ” with its grammatical variations and cognate expressions includes exchange or barter and any agreement or contract to purchase, exchange or barter;

“ Regional Production Development Boards ” means the Eastern and the Western Regional Production Development Boards established under section 38;

“ Representative Committee ” means the Oil Palm Produce Representative Committee established under section 30;

"sell" with its grammatical variations and cognate expressions includes exchange or barter and any agreement or contract to sell, exchange or barter;

"Western Region" means the Western Provinces of Nigeria as defined in the Nigeria (Legislative Council) Order in Council, 1946.

(2) For the purposes of this Ordinance, the Western Region shall be deemed to include the Colony.

PART II

ESTABLISHMENT AND CONSTITUTION OF THE
MARKETING BOARD

3. (1) So soon as may be after the coming into operation of this Ordinance, there shall be established for the purposes thereof a Marketing Board to be known as the Nigeria Oil Palm Produce Marketing Board, which shall be a body corporate with perpetual succession and a common seal and with power to sue and be sued in its corporate name.

Establishment of the Nigeria Oil Palm Produce Marketing Board.

(2) The Marketing Board shall consist of a Chairman to be appointed as such by the Governor, two official members to be appointed by the Governor, and three Nigerian unofficial members to be appointed by the Governor, of whom two shall be normally resident in the Eastern Region and one normally resident in the Western Region.

(3) The Governor may appoint a person to be a member of the Marketing Board by name, or, in the case of an official member, by designating the office of which he is the holder.

4. The Chairman and other members of the Marketing Board shall, subject to the Governor's pleasure, hold office for three years from the dates of their respective appointments but shall be eligible for re-appointment.

Term of office.

5. (1) When the Chairman is temporarily absent from Nigeria or otherwise is temporarily incapacitated from performing the functions of his office, the Governor may appoint a person, whether or not such person is a member of the Marketing Board, to be Chairman during such period of absence or incapacity.

Temporary absence of Chairman.

(2) Upon any temporary appointment being made under the provisions of sub-section (1), all the powers and duties of the Chairman under this Ordinance shall devolve upon the person so temporarily appointed.

No. 12 of 1949 *Nigeria Oil Palm Produce
Marketing*

Temporary
absence of
a member.

6. When a member of the Marketing Board is temporarily incapacitated from performing his functions as a member by reason of his temporary absence from Nigeria or for any other good cause, the Governor may appoint a person temporarily to be a member during such period of incapacity, and during such period all the powers and duties of the member so temporarily incapacitated shall devolve upon the member so temporarily appointed.

Power to
co-opt.

7. Where upon any special occasion the Marketing Board desires to obtain the advice of any person upon any particular matter, the Marketing Board may co-opt such person to be a member for such meeting or meetings as may be required, and such person, while so co-opted, shall have all the rights and privileges of a member save that he shall not be entitled to vote upon any question.

Chairman to
have original
and casting
vote.

8. The Chairman duly appointed under the provisions of this Ordinance shall have an original vote and, where the votes are equally divided, a casting vote in addition to his original vote.

Quorum.

9. At a meeting of the Marketing Board three members and the Chairman shall be a quorum.

Meetings.

10. The Marketing Board shall meet at least twice in each year and at such other times as may be required by Standing Orders made under section 15.

Special
meetings.

11. (1) Any two members of the Marketing Board may, by notice in writing signed by them, request the Chairman to call a special meeting of the Marketing Board for the purposes set out in such notice.

(2) The Representative Committee, the Eastern Regional Production Development Board or the Western Regional Production Development Board may, by a resolution signed by the majority of its members, request the Chairman to call a special meeting of the Marketing Board for the purposes set out in that resolution.

(3) The Chairman shall, upon receipt of any such notice or resolution, summon a special meeting of the Marketing Board for such purposes at the earliest convenient date.

Secretary
to the
Marketing
Board.

12. (1) The Governor shall appoint by name or office a Secretary to the Marketing Board who shall conduct the correspondence and keep the records thereof and perform such other duties as the Marketing Board may from time to time direct or which are placed upon him under the provisions of this Ordinance or any other written law.

(2) The Secretary shall be an officer, but not a member, of the Marketing Board.

13. The Marketing Board is hereby exempted from the provisions of sections 26 and 43 of the Income Tax Ordinance, 1943. Exemption from Income Tax Ordinance, 1943.

14. (1) The Marketing Board may, with the approval of the Governor,— Delegation of powers and appointment of agents.

(a) by the majority vote of all its members delegate to the Chairman the routine administration of the affairs of the Board;

(b) from time to time, in like manner, appoint agents to perform any of the powers or duties conferred or imposed upon the Marketing Board, and for the purposes of this paragraph the term "agent" shall include a department of the Government or a Native Authority or group of Native Authorities.

(2) Nothing contained in this section shall be deemed to authorise the Marketing Board to delegate to the Chairman the power to make Standing Orders or to do any act involving extraordinary expenditure or to fix or control the price of produce subject to this Ordinance or to authorise any agent to exercise any power or duty outside the scope of the written appointment of such agent.

15. The Marketing Board may, with the approval of the Governor, from time to time make Standing Orders providing for the proper conduct of its business and for meetings of the Board and in particular for— Standing Orders.

(a) the custody and use of the common seal; and

(b) the method of entering into contracts and the execution thereof, and the signing of cheques and other similar instruments.

PART III

FUNCTIONS, POWERS AND DUTIES OF THE MARKETING BOARD

16. It shall be the duty of the Marketing Board to secure the most favourable arrangements for the purchase and grading for export and for the export and sale of the produce subject to this General functions of the Marketing Board.

Ordinance, and, by means of its allocation of funds to the Eastern and Western Regional Production Development Boards and as otherwise provided under sections 17 and 26, to promote the development of the producing industries concerned and the benefit and prosperity of the producers and the areas of production.

Specific
powers of
the Board.

17. In particular, and without prejudice to the generality of the provisions of section 16, the Marketing Board shall have power—

- (a) to control and fix the prices to be paid from time to time for produce subject to the provisions of this Ordinance which is to be exported, or sold under the provisions of section 62, or for any grade of such produce at any place or within any specified area, and similarly to notify such prices in such manner as the Marketing Board may deem requisite;
- (b) to prescribe as may be necessary standards and grades of produce subject to this Ordinance which may be exported;
- (c) to purchase produce subject to this Ordinance for export and for sale under section 62 and to do all things necessary for and in connection with the purchase of such produce;
- (d) to appoint licensed buying agents for the purchase of produce subject to this Ordinance for export, and for sale under section 62, by the Marketing Board;
- (e) to appoint agents for the bulk storage of palm oil at ports;
- (f) to control and fix the prices to be paid from time to time to licensed buying agents for the produce which they purchase on behalf of the Marketing Board;
- (g) to grant, renew or withhold licences for each crop year in respect of licensed buying agents, to impose conditions upon the grant or renewal of such licences in respect of the area in which the produce is to be purchased or sold or otherwise disposed of, and to cancel or suspend any licence for a breach of any such condition or for other good cause;
- (h) to grant, withhold or cancel in its absolute discretion any written authority given under sections 60, 61 or 62;

(i) to do all things necessary for and in connection with the marketing, cleaning, storing for export, exporting, shipping and sale of produce subject to this Ordinance;

(j) to apply its funds to the purposes prescribed by section 26.

18. The Marketing Board shall purchase all produce subject to this Ordinance which is suitable for export and offered for sale to it.

Marketing Board to purchase all produce for export offered for sale.

19. The Marketing Board may, from time to time, enter into any arrangement with the Government of any country or with any department, authority or person in any country, for or in connection with any of its functions under this Ordinance.

Power of Marketing Board to enter into arrangements.

20. (1) The Marketing Board shall seek the advice of the Representative Committee on all matters in connection with the purchase of, and the prescription of grades for, produce subject to this Ordinance.

Marketing Board to consult Representative Committee.

(2) The Marketing Board may refer any matter in connection with the exercise of its functions, powers and duties to the Representative Committee for advice.

(3) If the Marketing Board fails to accept the advice offered to it by the Representative Committee on any matter within the scope of sub-section (1), the Chairman shall forthwith report the matter to the Governor in Council with the reasons for such refusal.

21. (1) As soon as may be after the thirty-first day of December in each year, the Marketing Board shall prepare a report of its operations during the preceding year, and shall forward such report to the Governor in Council, together with a certified copy of the audited accounts of the Marketing Board.

Annual report and statement of accounts.

(2) The annual report and certified copy of the audited accounts of the Marketing Board shall be published in such manner as the Governor in Council may direct and shall be laid upon the table of the Legislative Council.

PART IV
FINANCIAL PROVISIONS RELATING TO THE
MARKETING BOARD

Power of
Marketing
Board to
acquire real and
personal
property and
to contract.

22. The Marketing Board may, with the approval of the Governor in Council, purchase, hold, manage and dispose of any property whatsoever whether real or personal and whether by way of investment or otherwise, and may enter into any contract.

Investments.

23. (1) Moneys standing to the credit of the Marketing Board may, from time to time, be invested in securities approved either generally or specifically by the Governor, and the Board may, from time to time, with like approval, sell any or all of such securities.

(2) (a) It shall be lawful for the Board to make and for the Government to receive loans out of moneys standing to the credit of the Board upon such terms as may be agreed by and between the Board and the Government.

(b) An agreement for a loan made pursuant to the provisions of paragraph (a) shall be of no force or effect whatsoever until the terms thereof have been approved by the Legislative Council by resolution.

Power to
borrow.

24. The Marketing Board may, with the approval of the Governor in Council, from time to time borrow, whether by way of mortgage or otherwise, such sum of money for and in connection with the exercise of its functions, powers and duties under this Ordinance as the Marketing Board may deem necessary.

Funds of the
Marketing
Board.

25. The funds and resources of the Marketing Board shall be—

- (a) such sums as may, from time to time, be paid to the Marketing Board from the amounts standing to the credit of the West African Produce Control Board in respect of palm oil and palm kernels in the books of the Government;
- (b) such sums as may be appropriated, from time to time, to the Board by any vote of the Legislative Council or by any resolution of the Legislative Council allotting moneys under the provisions of any written law;
- (c) moneys derived from the sale of produce subject to this Ordinance;

- (d) moneys earned or arising from any property and investments acquired by or vested in the Marketing Board;
- (e) moneys raised by loan under the powers to borrow vested in the Marketing Board by this Ordinance;
- (f) all other sums or property which may, in any manner, become payable to or vested in the Marketing Board in respect of any matter incidental to its functions, powers and duties.

26. (1) The Marketing Board may, from time to time, apply the funds at its disposal— Expenditure.

- (a) to or in connection with the purchase of produce subject to this Ordinance;
- (b) for and in connection with all or any of its functions, powers and duties under the provisions of this Ordinance;
- (c) to the cost of administration of the Marketing Board;
- (d) to the remuneration, honoraria and expenses of the members of the Marketing Board or of any class of member in respect of their duties under this Ordinance;
- (e) to the cost of the administration of the Representative Committee and the remuneration, honoraria and expenses of its members or any class of member in respect of their duties under this Ordinance;
- (f) to the payment of the salaries, gratuities or pensions of the servants of the Board;
- (g) to the interest payable in respect of any moneys borrowed under the provisions of this Ordinance;
- (h) to the stabilization of prices to the producers as required and as far as possible;
- (i) to the cost of scientific research into all matters affecting the oil palm industry;
- (j) to grants to the Eastern and Western Regional Production Development Boards in due proportion to the value of produce subject to this Ordinance purchased in their respective regions for expenditure by these Boards on the development of the producing industries concerned and for the economic benefit and prosperity of the producers and the areas of production and for the Production Development Boards' own necessary expenses.

No. 11 of
1949.

(2) If in the course of its operations the Marketing Board markets produce subject to this Ordinance which is purchased within the Northern Region, any profits which it makes by the sale of such produce, after deducting due provision for the purposes specified in paragraphs (a) to (i) of sub-section (1), shall be held by the Marketing Board at the disposal of the Governor, who shall, unless there is good reason to the contrary, direct the transfer of the profits in question to the Northern Regional Production Development Board established under section 38 of the Nigeria Groundnut Marketing Ordinance, 1949.

(3) If in the course of its operations the Marketing Board markets produce subject to this Ordinance which is purchased in the Colony, any profits which it makes by the sale of such produce, after deducting due provision for the purposes specified in paragraphs (a) to (i) of sub-section (1), shall be held by the Marketing Board at the disposal of the Governor, who shall unless there is good reason to the contrary direct the transfer of the profits in question to such body as may be deemed by him to be appropriate.

Servants of
the
Marketing
Board.

27. The Marketing Board may, with the approval of the Governor,—

- (a) from time to time appoint, upon such salaries, terms and conditions as it may think fit, such officers and employees as may be necessary for the proper and efficient conduct of the operations of the Marketing Board;
- (b) grant pensions, gratuities, or retiring allowances to any officer or employee and may require officers and employees to contribute to any pension or contributory scheme.

Accounts
and audit.

28. The Marketing Board shall keep accounts of its transactions to the satisfaction of the Governor in Council, and the accounts for each year ending on the 31st day of December shall be audited by the Audit Department of Government or by a person approved by the Governor.

Bad debts.

29. The Board may, with the approval of the Governor in Council, write off bad debts.

PART V

THE OIL PALM PRODUCE REPRESENTATIVE
COMMITTEE

30. There shall be established a committee to be known as the Oil Palm Produce Representative Committee, which shall consist of—

Establishment of Oil Palm Produce Representative Committee.

- (a) a Chairman to be appointed by the Governor by name or office;
- (b) one official member to be appointed by the Governor by name or office;
- (c) one representative, to be appointed by the Governor, of the licensed buying agents;
- (d) two Nigerian unofficial members, who shall be members of the Marketing Board, to be appointed by the Marketing Board, of whom one shall be normally resident in the Eastern Region and one in the Western Region;
- (e) seven Nigerian unofficial members, of whom four shall be appointed by the Eastern House of Assembly or selected by such other method as the Eastern House of Assembly may determine and three shall be appointed by the Western House of Assembly or selected by such other method as the Western House of Assembly may determine.

31. The Governor may appoint a person, by name or office, to be Secretary to the Representative Committee.

Secretary to the Representative Committee.

32. The Chairman and members of the Representative Committee shall hold office for three years from the dates of their respective appointments unless otherwise specifically stated in the instrument of appointment and they shall be eligible for re-appointment.

Term of office.

33. When the Chairman or member of a Representative Committee is temporarily absent from Nigeria or otherwise temporarily incapacitated from performing the functions of his office, the provisions of section 5 or section 6, as the case may be, shall apply *mutatis mutandis*.

Vacancies.

34. The Chairman duly appointed under the provisions of this Ordinance shall have an original vote and, where the votes are equally divided, a casting vote in addition to his original vote.

Chairman to have original and casting vote.

Quorum.

35. At a meeting of the Representative Committee, the Chairman and six members shall be a quorum.

Duties of
the
Represent-
ative
Committee.

36. (1) It shall be the duty of the Representative Committee from time to time as may be required—

- (a) to advise the Marketing Board on all matters in connection with the purchase and grading of produce subject to this Ordinance;
- (b) to advise the Marketing Board on any matters which the Marketing Board may refer to it under sub-section (2) of section 20;
- (c) to advise the Regional Production Development Boards, as and when required by those Boards, on all matters connected with the development of the producing industries concerned and on any scheme for the development of such industries or for the benefit and prosperity of the producers or of the areas of production.

(2) The Representative Committee may tender advice to the Marketing Board and to the Regional Production Development Boards, on any matters relating to the exercise by those bodies of their functions, powers and duties without any specific reference being made to the Representative Committee by the Marketing Board or the Regional Production Development Boards.

Standing
Orders.

37. The Representative Committee may, with the approval of the Governor, from time to time make Standing Orders providing for—

- (a) the proper conduct of its business;
- (b) the meetings of the Representative Committee; and
- (c) the expenses of members attending meetings of the Representative Committee.

PART VI

THE EASTERN AND WESTERN REGIONAL PRODUCTION DEVELOPMENT BOARDS

Establish-
ment of the
Eastern and
Western
Regional
Production
Develop-
ment
Boards.

38. There shall be established for the Eastern Region a Board to be known as the Eastern Regional Production Development Board and for the Western Region a Board to be known as the Western Regional Production Development Board, and each Board shall be a body corporate with perpetual succession and a common seal and with power to sue and be sued in its corporate name.

39. The Eastern Regional Production Development Board shall consist of not less than eight nor more than twelve members of whom—

Constitution of the Eastern Regional Production Development Board.

- (a) one shall be Chairman and shall be appointed by the Chief Commissioner, Eastern Provinces, by name or office;
- (b) one shall be an official member of the Eastern House of Assembly appointed by the Chief Commissioner, Eastern Provinces, by name or office;
- (c) not less than four nor more than eight shall be unofficial members of the Eastern House of Assembly, appointed by the said House, and
- (d) two shall be appointed by the Representative Committee from among such of its members as are appointed to it from the Eastern Region in accordance with the provisions of paragraphs (d) and (e) of section 30.

40. The Western Regional Production Development Board shall consist of not less than eight nor more than twelve persons of whom—

Constitution of the Western Regional Production Development Board.

- (a) one shall be Chairman and shall be appointed by the Chief Commissioner, Western Provinces, by name or office;
- (b) one shall be an official member of the Western House of Assembly appointed by the Chief Commissioner, Western Provinces, by name or office;
- (c) not less than four nor more than eight shall be unofficial members of the Western House of Assembly appointed by the said House, and
- (d) two shall be appointed by the Representative Committee from among such of its members as are appointed to it from the Western Region in accordance with the provisions of paragraphs (d) and (e) of section 30.

41. The Chairman and members of each of the Regional Production Development Boards shall hold office for three years from the dates of their respective appointments unless otherwise specifically stated in the instrument of appointment, and they shall be eligible for re-appointment.

Term of office.

Vacancies.

42. When the Chairman of a Regional Production Development Board or a member thereof is temporarily incapacitated from performing the functions of his office, the provisions of section 5 or section 6, as the case may be, shall apply *mutatis mutandis* save only that the Chief Commissioner of the Eastern or Western Provinces, as the case may be, may exercise the powers conferred by the relevant section.

Chairman to have original and casting vote.

43. The Chairman of a Regional Production Development Board shall have an original vote and, where the votes are equally divided, a casting vote in addition to his original vote.

Quorum.

44. At a meeting of a Regional Production Development Board five members and the Chairman shall be a quorum.

Meetings.

45. A Regional Production Development Board shall meet at least twice in each year and at such other times as may be required by Standing Orders made under section 49.

Special meetings.

46. (1) Any four members of a Regional Production Development Board may by notice in writing signed by them request the Chairman to call a special meeting of the Regional Production Development Board for the purposes set out in such notice.

(2) The Representative Committee may by a resolution signed by the majority of its members request the Chairman of a Regional Production Development Board to call a meeting of the Regional Production Development Board for the purposes set out in that resolution.

(3) The Chairman of a Regional Production Development Board shall upon receipt of any such notice or resolution summon a special meeting of the Regional Production Development Board concerned for such purposes at the earliest convenient date.

Secretary to the Board.

47. The Chief Commissioners of the Provinces concerned shall appoint by name or office Secretaries to the Regional Production Development Boards.

Delegation of powers and appointment of agents.

48. (1) A Regional Production Development Board may, with the approval of the Chief Commissioner of the Provinces concerned,—

(a) by the majority vote of all its members delegate to the Chairman the routine administration of the affairs of the Regional Production Development Board;

(b) from time to time, in like manner, appoint agents to perform any of the powers or duties conferred or imposed on the Regional Production Development Board, and for the purposes of this paragraph the term "agent" shall include a department of the Government or a Native Authority or a group of Native Authorities.

(2) Nothing contained in this section shall be deemed to delegate to the Chairman of a Regional Production Development Board the power to make Standing Orders or to do any act involving extraordinary expenditure or to authorise any agent to exercise any power or duty outside the scope of the written appointment of such agent.

49. A Regional Production Development Board may, with the approval of the Chief Commissioner concerned, from time to time make Standing Orders providing for the proper conduct of its business and for meetings and in particular for the method of entering into contracts and the execution thereof and the signing of cheques and other similar instruments.

Standing
Orders.

50. (1) It shall be the duty of a Regional Production Development Board to plan the expenditure of, and to expend, any funds accruing to it by grants from the Marketing Board or otherwise, for the development of the producing industries concerned and for the benefit and prosperity of the producers and the areas of production.

Primary
functions of
Regional
Production
Develop-
ment Board.

(2) Schemes for expenditure on the purposes indicated in subsection (1) of this section shall be subject to the approval of the Governor, which approval shall not however be withheld if, in the judgment of the Governor, the scheme is within the resources of the Regional Production Development Board and within the purposes to which the Regional Production Development Board is empowered to devote its funds.

51. A Regional Production Development Board may, with the approval of the Chief Commissioner concerned, purchase or lease, hold, manage and dispose of any property whatsoever, whether real or personal and whether by way of investment or otherwise, and may enter into any contract.

Power of
Regional
Production
Development
Board to
acquire real
and personal
property and to
contract.

- Investments.** **52.** Moneys standing to the credit of a Regional Production Development Board may from time to time be invested in securities approved either generally or specifically by the Chief Commissioner concerned, and a Regional Production Development Board may from time to time, with like approval, sell any or all of such securities.
- Fund of Regional Production Development Board.** **53.** The funds and resources of the Regional Production Development Boards shall be—
- (a) such sums as may be, from time to time, granted by the Marketing Board under paragraph (j) of sub-section (1) of section 26;
 - (b) such sums as may be appropriated from time to time to the Regional Production Development Boards by any vote of the Legislative Council or by any resolution of the Legislative Council allotting moneys under the provisions of any written law;
 - (c) moneys earned or arising from any property and investments acquired by or vested in the Regional Production Development Boards;
 - (d) all other sums or property which may in any manner become payable to or vested in the Regional Production Development Boards in respect of any matter incidental to their functions, powers and duties.
- Exemption from Income Tax Ordinance, 1943.** **54.** The Regional Production Development Boards are hereby exempted from the provisions of sections 26 and 43 of the Income Tax Ordinance, 1943.
- Expenditure.** **55.** In addition to expending their funds in pursuance of their main functions as prescribed in section 50, the Regional Production Development Boards may, from time to time, apply the funds at their disposal to their own necessary expenses, including the remuneration, honoraria and expenses of their members in respect of their duties as such members, and the payment of the salaries, gratuities or pensions of their servants.
- Servants of the Board.** **56.** A Regional Production Development Board may, with the approval of the Chief Commissioner concerned,—
- (a) from time to time, upon such salaries, terms and conditions as it may think fit, appoint such officers and employees as may be necessary for the proper and efficient conduct of its operations;

- (b) grant pensions, gratuities or retiring allowances to any officer or employee and may require officers and employees to contribute to any pension or contributory scheme.

57. A Regional Production Development Board shall keep accounts of its transactions to the satisfaction of the Chief Commissioner concerned, and the accounts for each year ending the thirty-first day of March shall be audited by the Audit Department of Government or by a person approved by the Chief Commissioner concerned. Accounts and audit.

58. A Regional Production Development Board may, with the approval of the Chief Commissioner concerned, write off bad debts. Bad debts.

59. (1) A Regional Production Development Board shall, in respect of each year ending the thirty-first day of March, submit to the Chief Commissioner concerned a report containing— Report.

(a) an account of its transactions throughout the year in such detail as the Chief Commissioner concerned may direct, and

(b) a statement of the accounts of the Board duly audited in accordance with the provision of section 57.

(2) A copy of the report together with a copy of the report of the auditor shall be printed and laid on the table of the appropriate House of Assembly.

PART VII

CONDITIONS OF EXPORT AND PURCHASE FOR LOCAL PROCESSING

60. From and after the commencement of this Ordinance, no person shall export produce subject to this Ordinance except— Restriction on persons who may export.

(a) a licensed buying agent acting on behalf of the Marketing Board; or

(b) any other person duly authorised by the Marketing Board:

Provided that the Marketing Board may issue a general licence for the export of small quantities of produce, not exceeding four gallons each of palm oil or palm kernel oil, as accompanied or unaccompanied personal effects or by parcel post.

Restriction
on produce
which may
be exported.

61. From and after the commencement of this Ordinance, no produce which is subject to this Ordinance shall be exported other than—

(a) produce which is the property of the Marketing Board;
or

(b) produce the export of which has been duly authorised in writing by the Marketing Board.

Local
processing.

62. The Marketing Board may direct that any produce subject to this Ordinance which is required for use in a manufacturing process shall be purchased from the Marketing Board :

Provided that in giving any direction under this section the Marketing Board shall have regard to the interests of Nigerian industries.

PART VIII

OFFENCES

False repre-
sentation.

63. Any person who falsely holds himself out or represents himself to be a licensed buying agent, or a person acting on the authority or instructions of the Marketing Board, shall be guilty of an offence.

General
offences.

64. Any person who contravenes or fails to comply with any of the provisions of this Ordinance or who contravenes or fails to comply with the terms or conditions of any licence or authority granted under the provisions of this Ordinance shall be guilty of an offence.

Penalty.

65. Any person convicted of an offence against this Ordinance shall be liable to a fine of five hundred pounds or to imprisonment for two years or to both such fine and imprisonment.

Special
provision as
to directors.

66. Where an offence against this Ordinance is committed by a body corporate and such offence has been committed on the direction of or with the consent or approval of any director, manager, secretary or other officer of such body corporate, that individual, as well as such body corporate, shall be guilty of that offence and may be proceeded against, and if convicted, be punished accordingly.

PART IX
GENERAL

67. (1) Where the Marketing Board ceases for any reason to exercise its functions under this Ordinance whether by reason of the repeal of the Ordinance or otherwise, the funds of the Marketing Board shall be allocated for the benefit of the Northern, Eastern and Western Regions and of the Colony in such proportions as the Legislative Council, having due regard to the volume of produce marketed in each region, may by resolution direct.

Control of funds of the Marketing Board on dissolution.

(2) Such funds as are thereby allocated for the benefit of the Colony shall be disposed of for the benefit of the Colony and in such manner as the Governor in Council may direct.

(3) Such funds as are thereby allocated for the benefit of the Northern Region shall be disposed of for the benefit of such Region and in such manner as the Northern House of Assembly and the House of Chiefs may by resolution direct.

(4) Such funds as are thereby allocated for the benefit of the Western or Eastern Regions shall be disposed of for the benefit of such Regions and in such manner as the Western or Eastern Houses of Assembly respectively may by resolution direct.

68. When either the Eastern or the Western Regional Production Development Board ceases or both such Boards cease for any reason to exercise its or their functions under this Ordinance, whether by reason of the repeal of the Ordinance or otherwise, the funds of such Board or of such Boards shall be disposed of for the benefit of the Western or Eastern Regions or both such Regions and in such manner as the Eastern or Western Houses of Assembly may respectively by resolution direct.

Control of funds of Regional Production Development Boards on dissolution.

69. Any person aggrieved by the refusal of the Marketing Board to grant or renew a licensed buying agent's licence or any authority or by any term or condition in any such licence or in any authority may, within twenty-one days of such refusal or of the imposition of the terms or conditions complained of, appeal in writing to the Governor in Council, whose decision shall be final.

Appeals.

70. The Governor in Council may make regulations generally for carrying into effect the provisions of this Ordinance and, in particular and without prejudice to the generality of the foregoing,—

Regulations.

-
- (a) for the licensing of buying agents;
 - (b) requiring books and accounts to be kept by licensed buying agents and for the inspection thereof;
 - (c) for the appointment and duties of inspectors;
 - (d) prescribing fees; and
 - (e) imposing penalties for offences against regulations made under this Ordinance to a limit of a fine of one hundred pounds or imprisonment for twelve months or both such fine and imprisonment.

SCHEDULE

Palm Oil

Palm Kernels

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

S. ADE. OJO,
Clerk of the Legislative Council.

Colony and Protectorate of Nigeria—1948 Revision

CHAPTER 190

RADIO-ACTIVE MINERALS

(ATOMIC ENERGY)

AN ORDINANCE TO REGULATE AND CONTROL PROSPECTING AND MINING FOR RADIO-ACTIVE MINERALS AND THE EXPORT THEREOF, AND TO MAKE PROVISION FOR THE SEARCH FOR AND FOR THE WORKING AND ACQUISITION OF SUCH MINERALS AND FOR PURPOSES CONNECTED THEREWITH.

*Ordinance
No. 37 of
1947.*

[11th September, 1947]

1. This Ordinance may be cited as the Radio-Active Minerals (Atomic Energy) Ordinance. Short title.

2. In this Ordinance, unless the context otherwise requires—
“licence” means a licence issued under the provisions of section 3 of this Ordinance; Interpretation.

“mine”, with its grammatical variations and cognate expressions, includes all operations for the intentional winning or obtaining of any radio-active mineral;

“permit” means a permit issued under the provisions of section 6 of this Ordinance;

“prospect”, with its grammatical variations and cognate expressions, means to search for any radio-active mineral, and includes such working as is reasonably necessary to enable the prospector to test the radio-active mineral-bearing qualities of the area concerned;

“radio-active mineral” means any substance specified in the Schedule to this Ordinance.

3. Notwithstanding anything in the Minerals Ordinance, or any other written law, no person shall within Nigeria prospect for or mine, or attempt to prospect for or mine, any radio-active mineral except under and in accordance with a licence granted by the Governor. Prospecting
and mining
restricted.
Cap. 134.

4. Every holder of a licence shall by the twentieth day in every month furnish the Chief Secretary with a true report in writing of the prospecting and mining operations conducted by him in the immediately preceding month with respect to radio-active minerals, and shall at the same time furnish the Chief Inspector of Mines and the Director of Geological Survey with a copy of such report. Holder of
licence to
report his
operations.

Radio-Active Minerals (Atomic Energy)

Discovery of radio-active minerals to be reported.
Cap. 134.

5. (1) If in the course of prospecting for or mining minerals other than radio-active minerals any holder of a prospecting right, or exclusive prospecting licence or mining right granted under the Minerals Ordinance, or any lessee of a mining lease granted under the said Ordinance, discovers any radio-active mineral, such holder or lessee shall immediately notify the Chief Secretary, the Chief Inspector of Mines, and the Director of Geological Survey of such discovery.

(2) No radio-active mineral so discovered shall be removed from the place where it is discovered without the consent of the Governor.

Export restricted.
Cap. 48.

6. Notwithstanding anything in the Customs Ordinance, or any other written law, no person shall export, or attempt to export, from Nigeria any radio-active mineral except under and in accordance with a permit granted by the Governor in that behalf.

Grant of licence or permit discretionary.

7. The grant of a licence or a permit shall be in the absolute discretion of the Governor, who shall be under no obligation to assign any reason for refusing the grant thereof.

Form of licence and permit.

8. Every licence and permit shall be in such form and for such period and be subject to the payment of such fee as the Governor may determine, and shall contain such terms and conditions as he may think fit to impose.

Power to do work for purposes of discovering minerals.

9. (1) The Governor or any person authorised by him in that behalf may, subject to the provisions of this section, do on, over or below the surface of any land such work as the Governor considers necessary for the purpose of discovering whether there is present in or on the land, either in a natural state or in a deposit of waste material obtained from any underground or surface working any radio-active minerals and the extent to which any such mineral is present.

Cap. 134.

(2) Before any powers are exercised under sub-section (1) in relation to any land, the Governor shall, where the land is the subject of a mining lease, a mining right or an exclusive prospecting licence, granted under the Minerals Ordinance, serve upon the lessee or the holder of such right or licence a notice in writing specifying the nature of the work proposed to be done and the extent of the land affected and the time, not being less than one month, within which and the manner in which objections

Radio-Active Minerals (Atomic Energy)

may be made thereto and in all other cases shall cause a notice in similar terms to be served upon the owner, lessee or occupier when such persons are known or may with reasonable diligence be ascertained, and no such power shall be exercised otherwise than in pursuance of the notice or before the expiration of the time specified therein for making objections.

(3) If any such objection is duly made and not withdrawn, the Governor shall, before exercising any such powers, afford an opportunity to the person making the objection of appearing before and being heard by a person, being an officer of the Legal or of the Judicial Department, appointed by the Governor for the purpose and, if the person making the objection avails himself of that opportunity, the Governor may afford to any other persons to whom it appears to him expedient to afford it, an opportunity of being heard on the same occasion.

(4) The Governor may, after considering any such objection and the report of the person-appointed as aforesaid either proceed under the original notice or serve on the persons on whom the original notice was served a further notice in writing withdrawing the original notice or modifying the terms thereof, but not so as to increase the extent of the land affected, and, in the case of modification, no powers shall be exercised under sub-section (1) of this section otherwise than in pursuance of the original notice as so modified.

(5) The powers conferred by sub-section (1) of this section shall be construed as including a power to remove any work constructed or other thing placed on, over or below the surface of the land in the course of the exercise of those powers, and to do such work on the land as the Governor or person authorised by him in that behalf thinks fit for the purpose of restoring the land wholly or partly to the condition in which it would have been but for the exercise of those powers.

(6) For the purpose of exercising the powers conferred by the foregoing provisions of this section, any person authorised by the Governor in that behalf may pass, with or without animals or vehicles, over any land.

(7) If any person wilfully obstructs or interferes with the exercise of powers under this section, he shall be guilty of an offence against this Ordinance.

Radio-Active Minerals (Atomic Energy)

(8) If the Governor and any person affected by an order do not agree as to any compensation payable in respect of the exercise of the powers conferred by this section or if satisfactory evidence of the claim of any person to any interest in the lands affected is not forthcoming or if separate and conflicting claims are made in respect of the same lands, the amount of compensation due, if any, and every case of disputed interest or title shall be settled by the Supreme Court, which shall have jurisdiction to hear and determine all such cases, upon a summons taken out by the Attorney-General or by any person holding or claiming to hold any estate or interest in the lands affected.

Acquisition
of rights to
work
minerals.

10. (1) Where it appears to the Governor that any radio-active minerals are present in or on any land either in a natural state or in a deposit of waste material obtained from any underground or surface working, he may by order provide for compulsorily vesting in him the exclusive right, so long as the order remains in force, to work those minerals and any other minerals which it appears to him to be necessary to work with those minerals, and may also provide, by that order or a subsequent order, for compulsorily vesting in him any other ancillary rights which appear to him to be necessary for the purpose of working the minerals aforesaid including (without prejudice to the generality of the foregoing provisions)—

- (a) rights to withdraw support ;
- (b) rights necessary for the purpose of access to or conveyance of the minerals aforesaid or the ventilation or drainage of the workings ;
- (c) rights to use and occupy the surface of any land for the purpose of erecting any necessary buildings and installing any necessary plant in connexion with the working of the minerals aforesaid ;
- (d) rights to use and occupy for the purposes of working the minerals aforesaid any land forming part of or used in connexion with an existing mine or quarry, and to use or acquire any plant used in connexion with any such mine or quarry ; and
- (e) rights to obtain a supply of water for purposes connected with the working of the minerals aforesaid, or to dispose of water or other liquid matter obtained in consequence of working such minerals.

Radio-Active Minerals (Atomic Energy)

(2) Any order made under this section shall provide for the payment of compensation in such cases and subject to such conditions as may be specified in the order or determined thereunder, in respect of loss suffered as the result of the acquisition or exercise of rights under the order, but no account shall be taken, in calculating the compensation payable as aforesaid, of the value of any minerals present in or on land affected by the order, being minerals specified in the order as those from which, in the opinion of the Governor, any of the prescribed substances can be obtained.

(3) Any order made under this section shall be published in the Gazette and shall be served—

(a) where the land affected is the subject of a mining lease, a mining right or an exclusive prospecting licence, granted under the Minerals Ordinance on the lessee, or the holder of such right or licence; or Cap. 134.

(b) in all other cases, upon the owner, lessee or occupier, where such persons are known or may with reasonable diligence be ascertained, of any land affected by the order.

(4) No order made under this section shall have effect until it has been laid before the Legislative Council and has been brought into operation in accordance with the provisions of this section.

(5) No order made under this section shall be laid before the Legislative Council until the requirements of sub-section (3) have been complied with and until the period of at least one month has elapsed from the date upon which it is published in the Gazette.

(6) Every order-made under this section shall be laid by the Chief Secretary before the Legislative Council at the first meeting thereof after the requirements of sub-section (5) have been complied with, and the Legislative Council may, by resolution, confirm such order and before confirmation may amend the same.

(7) An order made under this section and confirmed by the Legislative Council shall have full force and effect with or without amendment, as the case may be, as from the date of publication in the Gazette of the resolution of the Legislative Council confirming the same.

Radio-Active Minerals (Atomic Energy)

(8) If after the publication in the Gazette of any order and before the date of the appropriate meeting of the Legislative Council any petition praying for particular amendments to the order or being a prayer against the order generally is received by the Governor, he shall refer such petition to a select committee of the Legislative Council at the meeting during which the order is submitted for a report thereon and no resolution shall be taken on the order by the Legislative Council until the report of the select committee has been laid on the table.

(9) If any petition raises separate and conflicting claims in respect of any interest or title in the lands affected, the Legislative Council may, by the resolution in respect of the order, direct that such claims be determined by the Supreme Court, which shall have jurisdiction to hear and determine such cases, upon a summons taken out by the Attorney-General or by any person holding or claiming to hold any estate or interest in the lands affected.

Acquisition
of minerals
and plant.

11. (1) The Governor may compulsorily acquire—

- (a) any minerals, being minerals from which in the opinion of the Governor any of the prescribed substances can be obtained, other than minerals in a natural state or contained in a deposit of waste material obtained from any underground or surface working ;
- (b) any plant designed or adapted for the production or use of atomic energy or research into matters connected therewith,

and in the case of any plant which is affixed to land, the Governor may sever it from the land, and shall in that case make good any damage caused by the severance.

(2) If the Governor and the person affected by the acquisition of any article under this section are unable to agree as to the compensation to be paid in respect of such acquisition or if any doubt arises as to the ownership of any such article, the matter shall be settled by the Supreme Court, which shall have jurisdiction to hear and determine such cases, upon a summons taken out by the Attorney-General or by the person claiming to be the owner of any such article.

Offences.

12. (1) Every person who—

- (a) prospects for or mines, or attempts to prospect for or mine, any radio-active mineral within Nigeria without a licence ; or

Radio-Active Minerals (Atomic Energy)

- (b) being the holder of a licence, prospects for or mines, or attempts to prospect for or mine, any radio-active mineral within Nigeria otherwise than in accordance with any term or condition of his licence; or
 - (c) being the holder of a licence, fails to comply with the requirements of section 4 of this Ordinance; or
 - (d) exports, or attempts to export, from Nigeria any radio-active mineral without a permit; or
 - (e) being the holder of a permit, exports, or attempts to export, from Nigeria any radio-active mineral otherwise than in accordance with any term or condition of his permit; or
 - (f) obtains, or attempts to obtain, a licence or permit by means of any false statement or representation; or
 - (g) being the holder of a prospecting right or exclusive prospecting licence or mining right granted under the Minerals Ordinance, or the lessee of a mining lease granted under the said Ordinance, fails to comply with the provisions of sub-section (1) of section 5 of this Ordinance; or
 - (h) removes any radio-active mineral from the place where it is discovered except under and in accordance with the terms and conditions of a licence, or with the consent of the Governor granted under sub-section (2) of section 5 of this Ordinance,
- shall be guilty of an offence against this Ordinance.

(2) The court before which any person is convicted of an offence under sub-section (1) of this section shall order the forfeiture to Government of any radio-active mineral or prospecting or mining apparatus derived from, or employed in the commission of, any act in respect of which such person was convicted.

13. (1) Any police officer not below the rank of sergeant, any officer of the Mines Department not below the rank of inspector of mines, any officer of the Geological Survey Department not below the rank of geologist, and any other officer or class of officers authorised in writing by the Governor in that behalf, may, for the purpose of enforcing the provisions of this Ordinance, without warrant or other legal process—

Powers of examination.

Atomic Energy)

if he has reasonable grounds
under this Ordinance has
committed ;

if he has reasonable grounds for
or to be about to commit,
offence ;

if he has reasonable grounds for
or to be about to commit,
offence ; or

if he is engaged in or prospecting or mining
operations in which he has reasonable
grounds to be about to be, derived
from the commission of any offence under

section 1, or any radio-active mineral
has been seized, under the pro-
visions of this section, such person, mineral
has been seized, be brought before

section 1, or attempts to obstruct,
any officer in the execution, or
under this section, shall be
imprisonment for six months
or to both such imprisonment

may from time to time by
amend the Schedule to this

shall be deemed to absolve
the provisions and requirements
of customs laws as that expression
means Ordinance.

offence against this Ordinance
shall be, in addition to any order
imposed a fine of five hundred pounds
or to both such fine and

Radio-Active Minerals (Atomic Energy)

17. The Governor in Council may make such regulations for giving better effect to the provisions of this Ordinance as he may deem to be necessary or expedient.

Powers to
make
regulations.

SCHEDULE

(1) Minerals of the pitchblende group, including pitchblende, uraninite, ulrichite, broggerite, cleveite, and related mineral species.

(2) Torbernite and autunite.

(3) Secondary uranium minerals other than torbernite and autunite, including rutherfordine, uranite, uranophane, gummite, thorigummite, uranocircite, kasolite, becquerelite, and other silicates, hydrates, carbonates, phosphates, or arsenates, of uranium.

(4) Carnotite and tyuyamunite.

(5) Uranium-bearing niobate-titanate-tantalate ores, including euxenite, polycrase, blomstrandine, priorite, samarskite, fergusonite, betafite, plumboniobite, and related mineral species containing over one *per centum* uranium oxide.

(6) Monazite, thorite, thorianite and radio-active zircon.



Assented to in His Majesty's name this 29th day of April, 1949.

J. S. MACPHERSON,
Governor.

(LS.)

No. 14



1949

Colony and Protectorate of Nigeria

IN THE THIRTEENTH YEAR OF THE REIGN OF
HIS MAJESTY KING GEORGE VI

SIR JOHN STUART MACPHERSON, K.C.M.G.,

Governor and Commander-in-Chief

AN ORDINANCE TO PROVIDE FOR THE ESTABLISHMENT OF REGIONAL
DEVELOPMENT BOARDS FOR THE PURPOSE OF FOSTERING THE
ECONOMIC DEVELOPMENT OF NIGERIA BY MAKING GRANTS AND
ADVANCES OUT OF SUCH MONEYS AS MAY BE MADE AVAILABLE, AND
FOR PURPOSES CONNECTED THEREWITH.

[]

Date of
commence-
ment.

BE IT ENACTED by the Governor of Nigeria, with the advice
and consent of the Legislative Council thereof, as follows:—

Enactment.

PART I

PRELIMINARY

1. This Ordinance may be cited as the Regional Development
Boards Ordinance, 1949, and shall come into operation on a date to
be appointed by the Governor by notice in the Gazette.

Short title
and
commence-
ment.

Interpretation.

2. In this Ordinance, unless the context otherwise requires—
“ appropriate authority ” means, in relation to the Colony region, the Commissioner of the Colony and, in relation to any other region, the Chief Commissioner thereof ;
“ Board ” means a Development Board established pursuant to the provisions of section 3 ;
“ functions ” includes powers and duties ;
“ region ” means the area, for the time being, of the Northern or the Western or the Eastern Provinces, or of the Colony.

PART II

ESTABLISHMENT OF REGIONAL BOARDS

Establishment of Regional Boards.

3. There shall be established for each region a Development Board constituted in the manner hereinafter provided, and such Boards shall be known respectively as the Northern Regional Development Board, the Western Regional Development Board, the Eastern Regional Development Board and the Colony Development Board.

Constitution of Regional Boards.

4. (1) The Northern Regional Development Board, the Western Regional Development Board and the Eastern Regional Development Board shall consist of not less than five members to be appointed by the appropriate authority, and of the members so appointed three shall be—

- (a) in the case of the Northern Regional Development Board, Unofficial Members of the Northern Regional Council ; and
- (b) in the case of the other Boards, Unofficial Members of the appropriate House of Assembly :

Provided that when any such Board consists of more than five members, the Unofficial Members of the Northern Regional Council or of the appropriate House of Assembly, as the case may be, shall be in the majority.

(2) The Colony Development Board shall consist of not less than five members to be appointed by the appropriate authority, and of such members three, one to represent each Division in the Colony, shall be selected by the appropriate authority from a panel of twelve persons composed of one representative of each native authority in the Colony.

(3) A member of each Board shall be appointed to be chairman thereof by the appropriate authority.

5. (1) A member of a Board may, at any time by a resignation under his hand addressed to the appropriate authority, resign his membership, or, if he holds such office, the chairmanship, but, save as aforesaid and subject to the following provisions of this section, a member shall hold and vacate office in accordance with the terms of the instrument appointing him to be a member, or, as the case may be, to be chairman:

Tenure and
vacation of
membership.

Provided that, when a member of a Board becomes or ceases to be chairman, the appropriate authority may vary the terms of the instrument appointing him to be a member of the Board, so far as they relate to the date on which he is to vacate office as such.

(2) If the chairman of a Board ceases to be a member thereof, he shall cease to be chairman.

(3) A member of a Board who ceases to be a member shall be eligible for re-appointment.

(4) If the appropriate authority be satisfied that a member of a Board—

- (a) has been absent from two consecutive meetings of the Board without the permission of the Board; or
- (b) has become bankrupt or made an arrangement with his creditors; or
- (c) is incapacitated by physical or mental illness; or
- (d) is otherwise unable or unfit to discharge the functions of a member,

the appropriate authority may declare his office as a member of the Board to be vacant and shall notify the fact in such manner as the appropriate authority thinks fit, and thereupon his office shall become vacant.

(5) Where a member of a Board is temporarily incapacitated by illness or temporarily absent from Nigeria, the appropriate authority may appoint any person to be temporarily a member of the Board during such incapacity or absence.

6. Where upon any special occasion a Board desires to obtain the advice of any person on any particular matter, the Board may co-opt such person to be a member for such meeting or meetings as may be required, and such person whilst so co-opted shall have all the rights and privileges of a member save that he shall not be entitled to vote on any question.

Power to
co-opt
members.

Boards to be bodies corporate.

7. Each Board shall be a body corporate, and shall have perpetual succession and a common seal, and may sue and be sued in its corporate name.

Power to contract.

8. A Board may enter into such contracts as may be necessary or expedient for the purposes of its functions.

Instruments executed or issued by Boards.

9. (1) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of a Board by any person generally or specially authorised by such Board for that purpose.

(2) Any document purporting to be a document duly executed or issued under the seal of a Board or on behalf of a Board shall, unless the contrary is proved, be deemed to be a document so executed or issued, as the case may be.

Employment of staff.

10. A Board may, with the approval of the appropriate authority, appoint a secretary and such officers, agents and servants, on such terms as to remuneration or otherwise as it may determine.

Provision with respect to pensions, etc.

11. A Board may grant pensions, gratuities and retiring allowances to officers and servants and their dependants subject to such rules as may, from time to time, be made by it under the provisions of section 13.

Members of a Board not to receive remuneration.

12. A member of a Board shall not receive any remuneration or salary in respect of his services as a member of such Board, but he shall be entitled to receive such allowances for travelling and subsistence and in such circumstances as may, from time to time, be prescribed by the Board by rules.

Power to make rules.

13. A Board may, with the approval of the appropriate authority, make rules—

- (a) for the proceedings of the Board and the manner of transaction of its business, declaring how many members shall form a quorum and the method of voting;
- (b) for the appointment of a chairman of any meeting whereat the chairman appointed pursuant to the provisions of section 4 is not present;
- (c) for the custody and use of the common seal and, subject to the provisions of sub-section (1) of section 9, the manner in which documents, cheques and instruments of any description shall be signed or executed on behalf of the Board;

- (d) for the payment to members of the Board of travelling and subsistence allowances and the rates thereof;
- (e) for the establishment, maintenance and management of a provident fund for the benefit of non-pensionable staff and for all matters ancillary thereto; and
- (f) generally for the exercise of its functions under the provisions of this Ordinance.

PART III

TRANSFER OF ASSETS ETC. OF THE NIGERIA LOCAL DEVELOPMENT BOARD

14. The total sum of money standing to the credit of the Nigeria Local Development Board at the commencement of this Ordinance shall, as from the commencement of this Ordinance, be transferred to and vested in the Government, and the sums so vested shall thereafter be allocated by way of free grants to the Northern Regional, the Western Regional and the Eastern Regional Development Boards in such proportion and upon such terms and conditions as the Governor may determine.

Moneys standing to the credit of the Nigeria Local Development Board to vest in Government for re-allocation to Regional Boards.

15. (1) Upon a direction under the hand of the Governor given in that behalf whereof notice in writing shall be given by the Chief Secretary to all interested parties, the rights, interests, obligations and liabilities of the Nigeria Local Development Board under any contract or instrument whatsoever subsisting immediately before the date of such direction shall be deemed to be, and by virtue of this provision shall be, assigned to such Board as may be specified in such direction as from such date as may be so specified; and any such contract or instrument in respect to which such direction as aforesaid is given shall be as of full force and effect against or in favour of the Board so specified, and shall be enforceable as fully and effectually, as if, instead of the Nigeria Local Development Board, the Board so specified had been named therein or had been a party thereto.

Subsisting contracts etc., of the Nigeria Local Development Board, and pending proceedings etc.

(2) Any proceeding or cause of action pending or existing, immediately before the date specified in any direction given pursuant to the provisions of sub-section (1) of this section, by or against the Nigeria Local Development Board in respect of any right, interest, obligation or liability under any such contract or instrument as is specified in such direction may be continued and enforced by or against the Board specified in such direction, as it might have been against the Nigeria Local Development Board, if this Ordinance had not been enacted.

and of the Governor
 Nigeria Local Develop-
 -elopment formulated
 mentioned in such
 is section and without
 in such Board as may
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pending or existing,
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shall consist of—

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 -gislative Council allot-
 -propriate item of the
 e, 1945, or under the
 a law;

y a native authority;

ceived by or falling due
 the repayment of any
 or the interest payable
 e;

in any property, invest-
 -es acquired by or vested

ventures or investments
 Board; and

hich may in any manner
 in that Board in respect
 its powers and duties.

18. (1) It shall be lawful for the Government, with the prior approval of the Legislative Council (which expression shall include the prior approval of the Standing Committee on Finance of the Legislative Council), to make to the Boards or any of them block loans in multiples of fifty thousand pounds upon such terms as to repayment, payment of interest or otherwise as the Government may determine. Loans by the Government to Regional Boards.

(2) In the case of the Northern Regional Development Board, an application to the Government for such a loan shall be made by resolutions of the House of Chiefs and of the House of Assembly; in the case of the Western Regional Development Board and the Eastern Regional Development Board, such application shall be made by a resolution of the appropriate House of Assembly; and in the case of the Colony Development Board, such application shall be made direct to the Financial Secretary.

(3) The sums annually required for the repayment of any loan so made to a Board and for the payment of interest on any such loan shall, in the case of any Board, other than the Colony Development Board, be borne upon the annual estimates of expenditure of the region concerned.

19. A Board may buy and sell moveable or immoveable property, whether by way of investment or otherwise, for the purposes of its functions under this Ordinance. Power to buy or sell.

20. A Board may accept debentures and enter into mortgages by way of security for moneys owing to such Board. Power to accept debentures and mortgages.

21. Moneys standing to the credit of a Board may, from time to time, be invested in securities approved either generally or specifically by the appropriate authority, and a Board may, from time to time, with the like approval, sell any or all of such securities. Investments.

PART V

POWERS OF BOARDS TOUCHING ADVANCES AND GRANTS

22. (1) A Board with the approval of the appropriate authority may, out of its funds and resources, make advances or grants or both advances and grants to any person for schemes— Advances and grants.

- (i) connected with public works, public utilities, town, urban and village planning and other similar projects or class of project;

- (ii) for the promotion and development of village crafts and industries and the industrial development of the products of Nigeria;
 - (iii) for land settlement, land utilization, forest and fire-wood plantations and other similar projects;
 - (iv) for the setting up and operation of any experimental undertaking by any public body, authority or public service for the purpose of testing industrial or processing development of any product of Nigeria;
 - (v) of public value as may from time to time be authorised by the appropriate authority.
- (2) In exercise of its powers under sub-section (1), a Board shall not—
- (a) make any grant whatsoever, or
 - (b) make any advance in excess of ten thousand pounds, or
 - (c) make any combined advance and grant in excess of ten thousand pounds,
- without the prior approval—
- (i) in the case of the Northern Regional Development Board, of the Standing Committees on Finance of the House of Chiefs and House of Assembly;
 - (ii) in the case of the Colony Development Board, of the Standing Committee on Finance of the Legislative Council; and
 - (iii) in the case of the other Boards, of the Standing Committee on Finance of the appropriate House of Assembly.

Other powers of expenditure.

23. In addition to the provisions of section 22, a Board, with the approval of the appropriate authority (which approval may be given generally), may from its funds and resources—

- (a) make payments of any expenses lawfully incurred by the Board including survey, legal and other fees and costs;
- (b) make payment for any other expense, cost or expenditure properly incurred or accepted by the Board in pursuance of its purposes under the provisions of this Ordinance;
- (c) make purchases of plant, equipment and any stores and materials, and acquire land and erect buildings, and carry out any other works and undertakings as

part of or in contemplation of advances and grants to be made under the provisions of sub-section (1) of section 22:

Provided that the approval of the appropriate authority shall not be required in respect of any expenditure lawfully incurred pursuant to any rules lawfully made under section 13.

24. The total amount which may be expended by a Board in any one calendar year, including advances and grants made under the provisions of section 22 and moneys expended under the provisions of section 23, shall not, save with the prior approval of the appropriate authority exceed fifty thousand pounds in the case of the Colony Development Board and one hundred thousand pounds in the case of any other Board:

Limitation on total yearly expenditure.

Provided that any payment made by a Board pursuant to a direction given under the provisions of section 25 shall not be taken into account in calculating the total amount which a Board may expend:

Provided further that until a payment made under the provisions of paragraph (c) of section 23 forms part of an advance or grant made under the provisions of section 22, it shall not be taken into account in calculating the total amount which a Board may expend.

25. The Governor in Council may, from time to time, direct that a Board shall pay into the general revenue or other funds of Nigeria all or any part of its revenue or funds, and thereupon the Board shall forthwith pay such sum into the general revenue or other funds of Nigeria, as the case may be, and the Board shall lose all right, title and interest in such sum which shall thereupon form part of the general revenue or other funds of Nigeria.

Governor in Council may direct payments into general revenue, etc.

26. When making an advance, a Board may charge such rate of interest as it may deem fit in any particular case or may make an advance either wholly or partly free of interest.

Interest on advances.

PART VI

REPAYMENT ETC., OF ADVANCES

27. (1) The repayment of every advance and the payment of interest on every advance shall, subject to the provisions of this Part, be made in accordance with the terms and conditions of the agreement under which such advance was made.

Repayment etc., of advances, and accounting therefor

(2) All moneys paid as aforesaid shall be taken into the accounts of the Board by which such advance was made, and, subject to any direction of the Governor in Council under the provisions of section 25, the appropriate authority may direct such Board either generally or in any particular case to transfer to the accounts of the appropriate region all or any part of the moneys so paid.

Suspension of payment of principal and interest and power to extend time, compound or release.

28. A Board, with the approval of the appropriate authority, may—

- (a) postpone, for any time not exceeding five years, the payment of any sum due for principal and interest or for either principal or interest to the Board in respect of an advance, upon such terms and conditions for the carrying out of the purposes of such advance and for the ultimate repayment of such principal or payment of such interest as the Board may deem necessary;
- (b) from time to time extend the period for the repayment of any advance, or compound or release any advance or any part thereof, subject to such terms and conditions as the Board may think fit;
- (c) reduce the rate of interest payable in respect of any advance.

Repayment of advances before due.

29. A Board may at any time accept payment of the whole or any part of the principal and interest of an advance before the time when such repayment or payment is due, upon such terms and conditions as the Board may think fit.

PART VII EXAMINATION AS TO APPLICATION OF ADVANCES AND GRANTS

Examination as to application of moneys advanced or granted.

30. (1) Where a Board has made an advance or grant of money under the provisions of this Ordinance, the Board may, from time to time, make or cause to be made such examination as may be necessary to ensure that the advance or grant is being applied to the purposes for which it was made.

(2) Such Board may appoint any of its officers, or any other person authorised in writing by the Board, to make such examination, and the person in receipt of the advance or grant shall produce to such officer or person all the relevant books, documents and other matters and things necessary for the purposes of the examination.

31. Where, upon any examination made under the provisions of section 30, it appears to the Board concerned that any sum being the whole or any part of the advance or grant has not been applied for the purposes for which the advance or grant was made, the Board may order that any such sum be, within the time mentioned in the order, applied to such purposes or that such sum be repaid to the Board within the time mentioned in the order, whether such sum was by way of advance or grant; and any sum so ordered to be repaid to the Board shall thereupon become a debt due to the Board.

Order of Board upon such examination.

32. (1) If any advance made under the provisions of this Ordinance has been mis-applied, the Board concerned may—

Misapplication of advance secured by mortgage or otherwise.

- (a) where such advance has been secured by mortgage, by notice in writing addressed to the mortgagor recall the said advance or any part thereof and may require the advance or that part to be repaid on the date specified in the notice; and any security given for the purpose of the advance may be realised accordingly;
- (b) where such advance has been secured otherwise than by way of mortgage, by notice in writing addressed to the borrower recall the said advance or any part thereof and may require the advance or that part to be repaid on the date specified in the notice; and any security given for the purpose of the advance may be realised accordingly.

(2) The provisions of sub-section (1) shall be in addition to any other proceedings; and in any criminal proceeding in respect of the misapplication of any advance or grant, the onus of proving that he acted in good faith and without knowledge that he was not entitled so to apply the advance or grant or any part thereof shall lie upon the person charged with the misapplication.

33. Where any property mortgaged as security for an advance is sold for the purpose of the enforcement of the security, the Board concerned may buy such property and may either manage and hold such property or sell or otherwise dispose of it as the Board may think fit.

Enforcement of securities.

PART VIII ACCOUNTS AND REPORT

34. Each Board shall keep accounts of its transactions to the satisfaction of the appropriate authority, and such accounts shall be audited in every year by the Audit Department of the Government or by a person approved by the appropriate authority.

Accounts and audit.

Bad debts. 35. A Board may, with the approval of the appropriate authority, write off bad debts.

Annual reports, etc. 36. (1) Each Board shall, within ninety days after the end of each financial year, submit to the appropriate authority a report containing—

- (a) an account of its transactions throughout the year in such detail as the appropriate authority may direct, and
- (b) a statement of the accounts of the Board duly audited in accordance with the provisions of section 34.

(2) A copy of each such report together with a copy of the report of the auditor shall be printed and shall—

- (a) in the case of the Northern Regional Board, be laid upon the table of the House of Chiefs and of the Northern House of Assembly; and
- (b) in the case of the Western and the Eastern Regional Boards, be laid upon the table of the appropriate House of Assembly; and
- (c) in every case, be laid upon the table of the Legislative Council.

(3) For the purposes of this section, the expression “ financial year ” means a period of twelve months beginning on the 1st day of April, except that the period between the establishment of a Board and the 31st day of March, 1950, inclusive, shall be deemed to be a financial year.

PART IX LEGAL

Advances by a Board or a Government debt. 37. Every sum payable to a Board in respect of any advances and any other sum due to a Board shall be deemed to be payable to the Government and, in addition to any other method of recovery, may be recovered as a debt due to the Government.

Legal proceedings. 38. (1) A Board may appear upon the hearing of any matter before a court by a Law Officer or Crown Counsel or, with the consent of the Attorney-General, by a legal practitioner.

(2) Proceedings for offences arising out of the provisions of this Ordinance or in connection with any advance or grant made hereunder shall be instituted by the Attorney-General.

Charge on property and priority of advances. 39. Where an advance is made by a Board on the security of a mortgage of any property, whether with or without any other security, the property shall, from and after the date of the mortgage,

be charged with the payment of such advance and interest as in the mortgage mentioned, in priority, save so far as otherwise specified in the mortgage, over every other debt, mortgage or charge whatsoever affecting the property, except any loan, due to any creditor not assenting to such priority which has been made in good faith before the advance made by the Board and which has been secured by a duly registered mortgage of the property executed to a person who is entitled as a *bona fide* creditor to the repayment thereof with interest:

Provided that if there is more than one such creditor and not less than four-fifths in value of such creditors consent in writing that the said charge shall have priority over the loans and mortgages of such creditors, then the loans and mortgages of all such creditors, as well those who have not agreed as those who have agreed, shall be postponed to the advance made by the Board and to the security for the same.

40. (1) No act done or proceeding taken under this Ordinance shall be questioned on the ground— Minutes and proceedings.

(a) of the existence of any vacancy in or any defect in the constitution of a Board; or

(b) of any omission, defect or irregularity not affecting the merits of the case.

(2) Any minutes made touching a meeting of a Board shall, if duly signed, be receivable in evidence in all legal proceedings without further proof, and every meeting of a Board in respect of which minutes have been so made shall be deemed to have been duly convened and held and all members thereof to have been duly qualified to act.

41. Service upon a Board of any notice, order or other document may be effected by delivering the same or by sending it by registered post addressed to the secretary of the Board. Service.

PART X MISCELLANEOUS

42. (1) A Board may, if it considers it expedient to do so, appoint a committee of the Board to examine and report to the Board on any matter, scheme or other thing whatsoever arising out of or connected with any of the functions of the Board under this Ordinance. Power to appoint committee

(2) Any such committee shall consist of at least two members of the Board together with such other persons, whether members of the Board or not, whose advice the Board may desire.

(3) Where persons not being members of the Board are members of a committee appointed under this section, the Board may, by resolution, declare the remuneration and allowances of such other persons and such sums shall properly be payable out of the funds and resources of the Board.

(4) The Board may by resolution reject the report of any such committee, or adopt it either wholly or with such modifications, additions or adaptations as the Board may think fit.

Power to
administer
oaths.

43. (1) A Board may examine any person willing to be examined on any matters connected with the execution of this Ordinance, and may for that purpose or otherwise for the purpose of the execution of this Ordinance administer an oath and take evidence by affidavit or declaration.

(2) Any person who, when examined by a Board under the provisions of this Ordinance, wilfully gives false evidence or who, for the purpose of obtaining an advance from a Board, wilfully gives information to a Board which is false in any material particular, shall be guilty of an offence, and may be tried and punished in the same manner as if he had given false evidence in a judicial proceeding.

Repeal.
No. 2 of
1946.

44. The Nigeria Local Development Board Ordinance, 1945, and all rules made thereunder are hereby repealed.

This printed impression has been carefully compared by me with the Bill which has passed the Legislative Council, and is found by me to be a true and correctly printed copy of the said Bill.

S. ADE. OJO,
Clerk of the Legislative Council



